

Part A: General Conditions of Purchase

1 Scope

Scope

1.1 All contracts concluded between the companies of the [Arvato Systems Group](#) ("Client") and the Contractor for the **"Purchase and Maintenance of Hardware and the Provision and Maintenance of (Standard) Software"** shall be governed exclusively by these General Conditions of Purchase ("GCP").

1.2 Contradictory terms and conditions of the Contractor or terms and conditions of the Contractor which deviate from the user of these terms and conditions are expressly not recognized. General terms and conditions of the Contractor shall not become part of the contract even if the Client does not expressly object to them.

1.3 These GPC shall only apply vis-à-vis entrepreneurs within the meaning of § 14 para. 1 BGB (German Civil Code); they shall also be agreed for all future contracts with the Contractor.

1.4 Inclusion of the terms and conditions of the Contractor or third parties by conclusive action is excluded. In particular, the acceptance of deliveries or services as well as payment by the Client shall not make the Contractor's terms and conditions of business the subject of this agreement.

1.5 For the contractual services of the Contractor relating to the maintenance of hardware and the maintenance of software, §§ 631 et seq. BGB shall apply.

2 Object of the Service

2.1 In the case of the purchase and maintenance of hardware, the object of the service is: (a) the purchase of hardware including the associated materials such as documentation (user manuals, etc.), concepts, drafts as well as the provision of other services by the Contractor in connection with the purchase, whereby the intended use of the hardware is defined in the function and product description and (b) the provision of hardware maintenance services as well as other services by the Contractor in connection with the maintenance of hardware in accordance with the order.

2.2 In the case of the provision of standard software, the object of the service is: (a) the provision of standard software including the associated materials such as documentation (user manuals, etc.), concepts, drafts and the provision of other services by the Contractor in connection with the provision, whereby the intended use of the software results from the function and product description and (b) the provision of software maintenance services and other services by the Contractor in connection with the maintenance of software in accordance with the order.

3 Principles of Service Provision

3.1 The Contractor shall provide the services owed under the contract in accordance with the state of the art at the time of conclusion of the contract and by Personnel qualified to provide the agreed services.

3.2 Contact persons of the contracting parties are exclusively the responsible contact persons named in the contract. Furthermore, the Client is entitled to make effective declarations with regard to the services to be rendered by the Contractor not only to the responsible contact person named by the Contractor but also to his representative.

3.3 The Client can demand the replacement of a person employed by the Contractor to fulfill the contract if this

person has violated contractual obligations or does not have the necessary expertise. The Contractor shall bear the costs incurred by the exchange.

3.4 The involvement of third parties as subContractors of the Contractor requires the prior consent of the Client in text form.

3.5 All dates specified by the Client are always binding.

4 Placing of Order

4.1 Only the content of the order is decisive for the performance of the service. Oral collateral agreements have not been made and only become effective upon confirmation by the Client.

4.2 The Contractor is obliged to accept the order within a period of 14 days. The period shall begin upon receipt of the order signed in text form. Any acceptance declared after the expiry of the period shall be deemed to be a new offer. This can only become legally effective if the Client does not object within 14 days.

4.3 Cost estimates, the preparation of quotations, the preparation of specifications, project planning documents, plans, drawings and models or other related elaborations or similar are only subject to a separate agreement.

5 Scope of Services

5.1 The scope of services in case of purchase of hardware is described in Part B Appendix 1.

5.2 The scope of services in the case of provision of standard software is described in Part B Annex 2.

6 Partial Performance

6.1 Partial services will not be accepted as contractual services.

6.2 In the case of partial performance, the Client shall be entitled to compensation instead of the entire performance if the Client has no interest in the partial performance. The §§ 280 ff. BGB shall apply.

6.3 In the case of purchase of hardware, the return shipment shall be at the expense of the Contractor. Until the return the goods are stored at the risk and expense of the Contractor.

7 Handover / Functional Test / Acceptance

7.1 Prior to the actual handover of the purchased hardware or the hardware maintenance services rendered or prior to the actual handover of the provided software or the software maintenance services rendered to the Client, the Contractor is obliged to first examine the services in detail itself and in particular to determine whether they meet the contractually required requirements, in particular whether they offer the functions specified in the detailed product description. If the cooperation of the Client is required for this, the Contractor will inform the Client in good time.

7.2 Test

7.2.1 In the case of the purchase of hardware, the services in accordance with the above clause shall be handed over to the Client at the contractually agreed time after set-up, installation and (re)establishment of technical operational readiness for the purpose of carrying out a functional test.

7.2.2 In the event that standard software is provided, the services pursuant to the above clause shall be handed over to the Client at the contractually agreed time after implementation for the purpose of performing a functional test.

7.3 A protocol, which can be drawn up in text form, shall be prepared, which records the performance of the function test and its result. The protocol shall be signed by the Contractor and the employee nominated by the Client.

7.4 If no major defects are found during the functional test, the Client is obliged to declare acceptance. The Contractor shall then carry out the instruction at the contractually agreed time. Both the acceptance and the instruction shall be confirmed in text form in accordance with the above provision.

7.5 If the functional test reveals significant functional impairments or complaints (defects, in particular those of defect class 1 and 2 according to Appendix 1), the Client shall be entitled to refuse acceptance. In this case, the Contractor shall be obliged to remedy the defects without delay, but at the latest within a reasonable period of time. Thereafter, a new function test shall be carried out in accordance with Section 7.2. If this is successful, Section 7.5 shall apply accordingly.

7.6 If an extension of the functional test is necessary for reasons for which the Contractor is responsible and exceeds 7 calendar days, the Client shall be entitled to demand a contractual penalty of 0.5% of the total remuneration per commenced calendar day of delay.

A contractual penalty paid by the Contractor due to delay shall be set off against any further claim for damages.

Further claims of the Client in case of delay in delivery remain unaffected in any case.

8 Principles of Personnel Deployment

8.1 The Contractor shall render his services independently or with his own or external Personnel (hereinafter referred to as "Personnel").

8.2 The Client is entitled to demand the replacement of the Personnel employed by the Contractor with justification, which can be in text form, if the Contractor has repeatedly violated contractual obligations or if there is another important reason in the Personnel employed which is contrary to a cooperation between Client and Contractor.

8.3 If the Contractor uses external Personnel (e.g. freelancers or temporary workers), the Client can also demand the replacement of the external Personnel with justification if a further use is not reasonable for the Client. As the main contractual obligation to perform, the Contractor shall ensure and control on its own responsibility that any external specialists or subContractors it employs are deployed and controlled in accordance with the statutory regulations. Upon request of the Client, the Contractor shall provide the Client with documentation of the controls carried out and confirm the correctness in text form. Inconsistencies or missing confirmation proofs entitle the Client to immediate extraordinary termination of the contractual relationship.

8.4 The Contractor shall comply with the Client's request for the exchange of Personnel without delay. The additional expenditure resulting from the expansion or change of Personnel shall be borne by the Contractor.

8.5 In the individual contract, the Contractor shall name his own project manager as the central contact person. This person controls the entire project work on the part of the Contractor. On the other hand, the Client provides his own project manager as central contact person for the entire

project handling. This manager controls the entire project work on the part of the Client.

8.6 Under no circumstances shall the Contractor's Personnel be integrated into the Client's business. The Contractor shall remain solely responsible for this Personnel to the full extent. There shall be no division of labour between the Personnel of the Client and the Personnel of the Contractor. The Personnel employed by the Contractor will not be included in the internal vacation planning and representative regulations of the Client. Periods of deployment or service times are agreed exclusively with the project manager contractually appointed by the Contractor. The Personnel of the Contractor does not take part in internal meetings and events of the Client with company-specific contents and events (e.g. presentation round, company party). The only possible participation is in project and technical discussions which are directly related to the concretization of the contractual service, the provision of services or the acceptance of services. The Contractor as well as the Personnel employed by him use his own operating resources, unless an objective reason makes the use of the Client's operating resources necessary (e.g. IT security, data protection).

8.7 No project-related coordination, instructions or comparable communication between the Contractor's Personnel on duty and the Client's Personnel takes place without the participation of the responsible project managers. The Contractor shall involve the Client's project manager for binding information and for all questions arising from the performance of the contract. He will immediately provide information and make or communicate decisions. Decisions and information of other persons are only binding for the Contractor and his staff if they have been made or confirmed by the project manager of the Client in text form.

8.8 In the event of any complaints about defects in the performance of the Contractor, the Contractor's project manager shall in principle be the sole contact person for the Client's project manager. No complaint shall be made about the performance of the Contractor to the Contractor's other Personnel.

8.9 The Contractor shall ensure that all Personnel employed by it has taken note of the regulations regarding confidentiality, data protection, plant security, the information sheet on the Federal Data Protection Act, the flyer for emergencies as well as the Client's information security guidelines and complies with the regulations accordingly.

8.10 Upon request, the Contractor shall inform the Client at a reasonable distance about the status of the project and compliance with the contractual requirements and shall report interim results. In addition, the Client may demand to inspect the relevant documents and extracts thereof.

9 Personnel deployment for end Clients

9.1 If the Contractor provides services at one of the Client's end Clients within the scope of this agreement, the Contractor and the Client shall each remain solely responsible for their Personnel. This means that neither the Personnel of the Client nor the Personnel of the Contractor will be integrated into the operation of the end Client. Furthermore, there is also no cooperation based on the division of labor and no direct communication between the Personnel of the Contractor, the Client and the end Client.

9.2 Any project-related coordination, instruction or comparable communication with the end Client shall be carried out solely by the responsible project manager of the Client. The latter shall be the exclusive contact person for the end Client as well as for the Contractor's project manager with

regard to the services rendered at the end Client of the Client within the scope of this agreement. In all other respects, the above provisions of sections 8.5 to 8.8 apply *mutatis mutandis*.

10 Minimum Wage

10.1 The Contractor is obliged to pay his employees the statutory minimum wage. At the request of the Client, the Contractor will prove to the Client during the entire term of the contract up to six months after termination of the present contractual relationship within 14 days that this obligation has been fulfilled by submitting suitable documents (in particular documents pursuant to § 17 (1) MiLoG, clearance certificate from the competent social security fund or vacation fund, etc.).

10.2 The Contractor shall indemnify the Client from all claims of third parties (in particular employees of the Contractor, Clients of the Client, Federal Employment Agency) in connection with the violation of the obligation to pay the statutory minimum wage on first demand.

10.3 The Contractor shall be obliged to oblige any sub-Contractor to pay the statutory minimum wage and to release the Client from his obligation to pay the statutory minimum wage and to release the Client from his obligation to pay the statutory minimum wage to the same extent as he himself is obliged to do under section 10.1 and 10.2. If the subContractor in turn uses subContractors, the Contractor shall ensure that all subContractors are also obliged accordingly.

10.4 The Contractor shall be liable to the Client for all claims of third parties arising from the violation of the obligation to pay the statutory minimum wage by subContractors.

11 Compensation

11.1 All agreed prices are exclusive of the legally applicable value added tax and include all incidental expenses, in particular travel expenses, travel times, transport costs and customs duties.

11.2 In case of wrong, bad or partial deliveries, the Client is entitled to refuse payment until proper performance.

11.3 If the Contractor is obliged to provide a warranty to the Client, the services owed under the contract, in particular hardware maintenance services or software maintenance services, shall be provided free of charge for the duration of the warranty period.

11.4 The agreed hardware maintenance services or software maintenance services shall be remunerated by the monthly, quarterly, semi-annual or annual flat-rate maintenance fee specified in the order. Section 11.3 shall remain unaffected.

11.5 Increase of the maintenance or service fee:

11.5.1 In case of purchase of hardware: An increase of the respective maintenance fee is not possible before 36 months have expired. Contractor shall give notice of the increase at least three months before the increase takes effect, at least in text form. The increase of the maintenance fee shall be within the scope of what is customary in the industry and shall under no circumstances exceed 2% of the annual maintenance fee valid up to that point in time. In the event of an increase, the Client reserves the right to terminate the contract by giving two weeks' notice before the increase takes effect. The termination shall become effective at the time the increase becomes effective.

11.5.2 In the case of the provision of standard software: An increase of the respective maintenance fee is not possible

before the end of 24 months. The Contractor shall give notice of the increase at least three months before the increase takes effect, at least in text form. The increase in the maintenance fee shall be within the scope of what is customary in the industry; it shall under no circumstances exceed 2% of the annual maintenance fee valid up to that point. In the event of an increase, the Client reserves the right to terminate the contract with two weeks' notice until the increase takes effect. The termination shall become effective at the time the increase becomes effective.

11.6 Unless otherwise agreed, the remuneration is due for payment 30 days after receipt of a verifiable invoice, but in principle only after acceptance of the services owed. The invoice shall contain the order number of the Client and, if no lump-sum remuneration has been agreed, details of the performance (including time, place, service rendered).

11.7 If payment is made within 14 days of receipt of the auditable invoice, the Contractor shall grant the Client a discount of 3% on the invoice amount.

11.8 The Contractor shall only be entitled to withhold payments or services and work results or to offset them against counterclaims if the claims asserted by the Contractor from the same legal relationship have either been acknowledged by the Client at least in writing or a legally binding decision has been made in legal proceedings. The assignment of claims of the Contractor against the Client to third parties is excluded.

12 Default

In case of default, the Client is entitled to the legal claims. In addition, in the event of default on the part of the Contractor, the Client shall be entitled to demand a contractual penalty of 0.5% of the total order value per commenced calendar day of default.

If the Contractor exceeds an agreed delivery date by more than 7 calendar days, the Client is entitled to withdraw from the contract immediately.

The contractual penalty can be claimed until the final payment of the remuneration.

A contractual penalty paid by the Contractor due to delay shall be set off against any further claim for damages.

Further claims of the Client in case of delay remain unaffected.

13 Defects(-notice) / Warranty

13.1 § Section 377 of the German Commercial Code (HGB) shall apply in such a way that the Client shall be obliged to give notice of defects within one week of acceptance, provided that a defect was identifiable in the course of random checks of reasonable scope. Visible transport damage shall be reported immediately, at the latest within one week. Payment of the remuneration does not constitute approval of the service.

13.2 The Client is entitled to the full statutory warranty claims.

13.3 During the warranty period, the Contractor shall remedy defects without delay.

13.4 The warranty period shall recommence if the defect is rectified.

14 Force Majeure

If the Contractor is not able to provide the service in due time due to force majeure (war, riots, strikes, lockouts, fire and floods), the Client may, at his option, instead of

unilaterally extending the deadline for the contractual provision of service, withdraw from the contract.

15 Liability

15.1 If the Client demands compensation for damages instead of performance, the claim to performance shall not lapse until the Contractor has paid the compensation.

15.2 In all other respects the statutory provisions shall apply.

16 Term and Termination

Unless otherwise agreed in the order, the following applies:

16.1 In case of purchase of hardware:

16.2 The hardware maintenance contract has a term of three years from the productive use of the hardware.

16.3 Contractor may terminate the hardware maintenance agreement by giving six months' notice to any end of month, but not earlier than three years. Client may terminate the hardware maintenance agreement at any time with a notice period of three months to any end of the month.

16.4 In the case of the transfer of software maintenance:

16.4.1 The software maintenance agreement has a term of two years from productive use of the software.

16.4.2 Contractor may terminate the software maintenance agreement by giving six months' notice to any end of the month, but not before the end of the second year. Client may terminate the software maintenance agreement at any time with a notice period of three months to any end of the month.

16.5 The Contractor must inform the Client three months before the end of the contract at least by eIDAS-compliant text form about the end of the contract term.

16.6 The right to extraordinary termination for good cause remains unaffected.

17 Third Party Rights

17.1 In the case of purchase of hardware: If the hardware products or hardware maintenance services supplied by the Contractor violate the rights of third parties and if this violation of rights is based on a service provided by the Contractor at least through slight negligence, the Contractor undertakes to indemnify the Client on first demand from all claims of third parties raised in this respect as well as from all costs associated with the legal defense including the costs for an adequate licence purchase.

17.2 In the case of the provision of standard software, the following shall also apply:

17.2.1 The Contractor shall be responsible, irrespective of fault, for the fact that it is entitled to grant the rights of use of the software products to the Client. He guarantees that the contractual use of the software (products) by the Client does not violate the rights of third parties.

17.2.2 Insofar as the software products or software maintenance services delivered by the Contractor violate the rights of third parties and this violation of rights is at least due to slight negligence on the part of the Contractor, the Contractor undertakes to indemnify the Client on first demand from all claims made by third parties as a result and from all costs associated with the legal defense, including the costs for an adequate license acquisition.

18 Confidentiality

18.1 The Contractor undertakes to keep secret and to maintain secrecy about all information (e.g. business and

trade secrets, data, technical and commercial information of any kind) which it has come to know about the Client and the order within the framework of this contractual relationship, whether verbally, in writing, in electronic or any other form, also beyond the duration of the contractual relationship. The information must be stored in such a way that any misuse is excluded.

18.2 Furthermore, the Contractor shall guarantee that his employees, consultants and other vicarious agents, who are entrusted with the execution of the contract and who receive information according to 18.1, are obliged in writing to maintain secrecy.

19 Privacy and Security

19.1 Contractor shall ensure that all persons entrusted with the performance of this contract observe the statutory provisions on data protection and are demonstrably obliged to maintain data secrecy in accordance with the rules on data protection.

19.2 In case of order processing, a separate agreement shall be concluded between the contracting parties.

19.3 The Client expressly does not give his consent to the use of the contact data for advertising purposes. Any disclosure, transmission or other use of the contact data of the Client is expressly prohibited.

19.4 The Contractor undertakes to take all necessary measures to ensure information and operational safety as well as quality assurance at the Client's premises during the performance of the contract. The relevant guidelines and information sheets of the Client shall apply, which will be made available to the Contractor at his request.

20 Insurance

20.1 The Contractor undertakes to maintain a business liability insurance throughout the entire duration of the contract, the scope and amount of which is appropriate to his liability risks under this contract.

20.2 Upon request of the Client, the Contractor shall provide evidence of the conclusion and existence of the insurance and the payment of the corresponding premiums.

21 Audit

21.1 The Client is entitled to carry out himself or through a commissioned third party, once a year, an audit, after timely notice and during business hours, at the Contractor's business premises in order to check the Contractor's compliance with the contractual obligations.

21.2 The confidentiality of information of the Contractor shall be maintained; appropriate security provisions shall be taken into account.

21.3 The Contractor is obliged to grant access to all systems, books, records, business processes and equipment which the Client requires in order to carry out a proper and thorough inspection. The Contractor shall provide the necessary cooperation in such an inspection.

22 Final provisions

22.1 This agreement can only be transferred to third parties with the consent of the other party in text form using an electronic signature (in accordance with eIDAS requirements). On the part of the Client, third parties within the meaning of this clause are not the companies affiliated with Bertelsmann SE & Co KGaA, Gütersloh, group companies (§§ 15 ff. AktG) and Bertelsmann SE & Co KGaA itself.

22.2 The Contractor is not entitled to name the Client, details of the order or the Client's end Client as a reference without the Client's express consent.

22.3 The contractual penalties specified in these contractual conditions may not exceed 5% of the total contract value.

22.4 The Contractor acknowledges the provisions of the Supplier Code of Conduct of Bertelsmann SE & Co KGaA and undertakes to act in accordance with them. This Code of Conduct for business partners can be found at www.bertelsmann.de/unternehmen/grundwerte/compliance/geschaeftspartner/.

22.5 Amendments, supplements and the cancellation of this contract must be made in text form using an electronic signature (in accordance with eIDAS requirements). This means that an e-mail format does not fulfill these requirements. The same applies to the cancellation of the written form requirement. All design rights must always be asserted with a signature variant that is at least eIDAS-compliant.

22.6 The existence of this contract shall not be affected by the invalidity of individual provisions or by gaps in the provisions. An ineffective provision or a gap in the provisions shall be replaced or filled by a valid provision which corresponds as closely as possible to the meaning and purpose of the provision that has been omitted or the remaining provisions of this contract.

22.7 The law of the Federal Republic of Germany shall apply, excluding the UN Convention on Contracts for the International Sale of Goods. The place of jurisdiction for all disputes arising out of or in connection with this contract shall be the court which is competent for the Client in respect of the subject matter and local jurisdiction.

Part B: Special Conditions of Purchase

Appendix 1 Hardware Features

1 Scope of services

1.1 This Annex shall then apply insofar as the contractually agreed performance relates to the **purchase of hardware**.

1.1.1 Delivery:

- a) Contractor shall deliver to Client the hardware designated in the order together with the associated documentation (hereinafter referred to collectively as "Hardware Products"). In addition, the Contractor shall supply the Client with the operating system software specified in the order and the standard application software (both programs hereinafter also referred to as "Software") together with the associated documentation, and shall grant the Client all rights of use required for the purpose of the contract and necessary for operating the hardware.
- b) The hardware products shall be delivered free of defects and free of charge (including freight and customs duty) in customary packaging to the delivery address specified in the order. If no delivery address is specified, delivery shall be made to the registered office of the Client.
- c) The hardware is bindingly to be delivered within the delivery time and on the delivery date stated in the order. Deliveries are made without reservation of title.
- d) The transfer of risk shall take place when the hardware is handed over free of defects at the place of delivery in accordance with letter b).
- e) The Contractor shall be obliged to take out, at his own expense, the insurance necessary for transport to the contractually agreed place of delivery in accordance with letter b).

1.1.2 Setup / Installation / Test Phase / Instruction:

- a) The Contractor shall provide the installation of the hardware and the production of the technical readiness for operation. If requested by the Client, the installation of the hardware also includes the professional dismantling of the old hardware.
- b) The software is delivered pre-installed on the hardware, unless otherwise agreed in the order. As a rule, however, the Contractor shall be responsible for the installation of the software required for the operation of the delivered hardware and software (in particular operating system) and for the adaptation (configuration) of the software at the Client's premises. These services require acceptance by the Client.
- c) When the hardware is used for the first time, Client shall be entitled to carry out a test period of 14 calendar days from completion of the activities referred to in letters a) and b). Within this period, the Client shall be entitled to withdraw from the purchase agreement at any time if the contractually agreed functions of the hardware are not completely fulfilled. If the Client has already tested the hardware free of charge before ordering, the above right does not apply.

- d) The Contractor shall support and train the Client's Personnel to the required extent and at its own expense so that the Client is able to use the hardware competently (instruction).
- e) The work to be performed by the Contractor under letters a) and b) requires acceptance by the Client.

1.1.3 Documentation: The Contractor shall be obliged to provide printed or at least printable, detailed user documentation and other manuals in German or, if not available, in English. The user documentation provided shall enable the Client to operate the hardware and software properly. The Contractor shall provide replacement free of charge in the event that the Client no longer has an up-to-date version of the aforementioned documents as a result of loss, accidental deletion or similar events.

1.1.4 Security: The Contractor shall ensure that the hardware and software does not contain any functionalities which make it possible to weaken, bypass or disable security functions and which were not made known to the Client in text form prior to delivery. Furthermore, he shall ensure that the hardware and software do not enable unauthorized third parties to gain access to systems or data of the Client without his consent.

1.1.5 Supply of Spare Parts: The Contractor is obliged to supply spare parts for the hardware for a period of 5 years from the transfer of risk against payment at the usual market rate.

1.1.6 Manufacturer's Warranty: The Contractor will transfer any claims arising from a manufacturer's warranty - insofar as the manufacturer offers such a warranty generally - to the Client free of charge. As far as the Contractor himself is the manufacturer of the hardware, the Contractor will offer the Client a manufacturer's warranty customary in the industry free of charge.

1.1.7 Program Locks: Program locks may not be used by the Contractor. If the use of program blocks is agreed separately, they may not impair the contractually agreed scope of use and must provide for a reaction time after warning which is appropriate for the respective area of use of the software.

1.2 Unless otherwise agreed, hardware maintenance includes in particular the following services:

1.2.1 Operational Readiness: The Contractor is obliged to maintain and restore the operational readiness of the hardware. To this end, he shall perform repair, maintenance and other servicing work such as configuration and installation work.

1.2.2 Elimination of Defects: Contractor shall be responsible for remedying any errors, system or equipment failures and other problems ("malfunctions") of the hardware. After notification of the malfunction by the Client, the Contractor shall immediately begin to remedy the malfunction; it shall remedy it within the service levels specified in Annex 1. The Contractor shall be responsible for ensuring that the Hardware is equipped in accordance with its previous configuration after the fault has been rectified; this includes, but is not limited to, the installation of any software that was installed on the Hardware prior to the fault rectification. The fault rectification shall be carried out at the location of the hardware products. As far as agreed between the parties in individual cases, fault rectification can also be carried out by remote maintenance. In case of malfunctions that can be easily and simply eliminated directly by the user, the Contractor can support the Client by telephone in the form of user-suitable instructions. If the Client temporarily provides the Contractor

with a workaround, the Contractor's obligation to permanently eliminate the defect remains unaffected.

1.2.3 Functionality: The Contractor shall ensure the functionality of the hardware by means of equipment maintenance and by the free replacement of defective or no longer reliably functioning wear parts. Replaced wear and spare parts only become the property of the Contractor after prior agreement with the Client.

1.2.4 Software Changes/Improvements: The Contractor undertakes to provide the Client with existing, generally offered and released new firmware and operating system versions free of charge for the purpose of improving the hardware provided. In case of hardware changes, the Contractor will, if necessary, instruct the Client's Personnel in the new hardware version in due time without separate remuneration.

1.2.5 User Support: The Contractor shall provide user support and shall regularly inform the Client of general user instructions and other special instructions and information on important questions and problems in connection with the hardware. He will support the Client regarding further application possibilities and problem solutions of the hardware and inform about new products.

1.2.6 Service Desk: The Contractor shall maintain a service desk during the agreed service hours with the aim of enabling direct problem solving in the event of malfunctions, application problems or other difficulties arising in connection with hardware processes and to advise and support the Client in organizational matters and in questions relating to hardware. The Service Desk can be contacted under a telephone and fax number free of charge for the Client as well as by e-mail.

1.2.7 Remote Diagnosis/Troubleshooting: After prior consultation with the Client, the Contractor is entitled to carry out remote diagnosis and remote troubleshooting as follows: The Contractor is available to the Client during the agreed service times for diagnosis and processing of occurring defects, application problems, malfunctions or other difficulties in connection with the functioning of the hardware via remote access (VPN connection or remote desktop sharing).

1.2.8 Documentation: If the hardware is changed on the basis of this Agreement, e.g. when a fault is rectified, when new hardware is supplied or after the installation of new firmware or a new operating system, Contractor shall make a corresponding addition/update to the user manual and the installation instructions for the hardware ("Documentation") with an explanation of the resulting changes. The documentation shall be updated in type (paper or electronic form) and scope according to the ideas and requirements of the Client.

1.2.9 Adaptation to Changed Standards: If mandatory legal framework conditions (i.e. mandatory laws, legal regulations, regulatory requirements) which are relevant to the intended use of the hardware change, the Contractor shall provide appropriate adaptations within a reasonable period of time free of charge within the scope of its operational and economic possibilities. This obligation shall not apply if the adaptation only involves unreasonable work for the Contractor and the Contractor has sufficiently explained the reasons for the unreasonable work to the Client. In such a case, the adjustment can only be carried out against a corresponding additional remuneration if the Client has commissioned this in advance.

1.2.10 Service Level: The Service Level Agreement as per Appendix 1 applies.

1.2.11 Security: If software in the form of patches, bug fixes, updates, upgrades, new releases, new versions, etc. is handed over in the course of hardware maintenance, the Contractor shall ensure that the software does not contain any functionalities which make it possible to weaken, circumvent or disable security functions and which were not made known to the Client in text form prior to handover. In particular, he shall ensure that this software does not enable unauthorized third parties to gain access to the Client's systems or data without the Client's consent.

1.3 Disposal: In addition, the Contractor shall assume the disposal of packaging free of charge and in accordance with data protection regulations for both the purchase and the maintenance of hardware and, at the request of the Client, the disposal of the hardware products even after the Client's use of them has ended.

Part B: Special Conditions of Purchase

Appendix 2 Scope of services for software

This Annex shall apply insofar as the contractually agreed service relates to the **provision of standard software**.

1.1 Unless otherwise agreed, the provision of standard software includes in particular the following services:

1.1.1 Delivery:

- a) Contractor shall deliver to Client the software designated in the order together with the associated program and user documentation and other manuals (hereinafter referred to collectively as the "software product(s)").
- b) The software products shall be delivered free of defects and free of charge (including freight and customs duty) in customary packaging and on suitable data carriers to the delivery address specified in the order. If no delivery address is specified, delivery shall be made to the registered office of the Client. Alternatively, the software products can be made available to the Client free of charge for download via an encrypted Internet portal provided by the Contractor.
- c) The software products must be delivered within the delivery time and on the delivery date specified in the order. Deliveries are made without reservation of title.
- d) The transfer of risk shall take place when the software products are handed over free of defects at the place of delivery according to letter b) or when the software products are stored free of defects on a data carrier of the Client.
- e) The Contractor shall be obliged to take out, at his own expense, the insurance necessary for transport to the contractually agreed place of delivery in accordance with letter b).
- f) In the event of a delay in delivery, the Client is entitled to the statutory claims. In addition, in the event of a delay in delivery on the part of the Contractor, the Client shall be entitled to demand a contractual penalty of 0.5% of the total remuneration per commenced calendar day of delay.

If the Contractor exceeds an agreed delivery date by more than 7 calendar days, the Client is entitled to withdraw from the contract immediately.

A contractual penalty paid by the Contractor due to delay shall be set off against any further claim for damages.

Further claims of the Client in case of delay in delivery remain unaffected.

1.1.2 Rights of Use

- a) The Contractor grants the Client all rights of use in the software products and the results of the software maintenance services at the time they are created which are necessary for the purpose of the contract and which are required for the operation of the software.

Unless otherwise agreed in the order, Contractor shall grant Client the simple, irrevocable, transferable,

sublicensable, local, i.e. independent of location and computer, and unlimited in time right to use the software products for its own business purposes, including the use and transfer of use of the software products or parts thereof for and in the case of business transactions within the meaning of §§ 15 ff. AktG with Bertelsmann SE & Co KGaA group affiliated companies, Bertelsmann SE & Co KGaA itself or other third parties (e.g. end Clients). The Client shall receive the exclusive right of use for delimitable components of the software products which are to be adapted by the Contractor to the Client's operational processes (e.g. customizing).

- b) If the order limits the right to use the software to individual locations and/or computers, Client shall be entitled, without additional compensation, to temporarily use the software at locations and/or computers other than those specified in the order if the latter are temporarily out of order.

If, in such a case, a change of location and/or computer within the Bertelsmann group should become necessary due to organizational or technical changes, Contractor shall, upon request, authorize Client to use the software products on the new computer and/or at the new location.

- c) The Contractor is obliged to inform the Client about possible restrictions with regard to the usability, modifiability or further distribution of the delivered software, which result from license conditions of third parties applicable for this. This applies in particular in the case of software or software components that are subject to an open source license or a comparable license model.

1.1.3 Backup Copies / Replacement:

- a) The Client is entitled to make copies of the software in machine-readable form for the purpose of proper data backup in the event of loss and/or damage to the software.
- b) Contractor shall provide free replacement for the last version of the software in productive use at Client and its predecessor version in the event that Client no longer has an executable version of the software due to loss, accidental deletion or similar events.

1.1.4 Implementation / Test Phase / Briefing:

- a) Unless otherwise agreed in the order, in addition to providing the software, Contractor shall also install and configure it at Client's premises and make it technically ready for operation (implementation).
- b) For fast and effective implementation, the Contractor shall provide a sufficient number of employees to ensure that the Client's business operations are not unreasonably impaired.
- c) When using the software for the first time, Client shall be entitled to a test period of 14 calendar days from completion of the activity referred to in letter a). Within this period, Client shall be entitled to withdraw from the purchase agreement at any time if the contractually agreed functions of the software are not completely fulfilled. If the Client has already tested the software free of charge before ordering, the above right does not apply.

- d) The Contractor shall support and train the Client's Personnel to the required extent and at its own expense so that the Client is able to use the software competently (instruction).
- e) The work to be performed by the Contractor under letter a) requires acceptance by the Client.
- 1.1.5 Documentation: The Contractor shall be obliged to provide printed or at least printable, detailed program and user documentation and other manuals in German or, if not available, in English. The documentation provided shall enable the Client to operate the software properly. The Contractor shall provide replacement free of charge in the event that the Client no longer has an up-to-date version of the aforementioned documents as a result of loss, accidental deletion or similar events.
- 1.1.6 Security: The Contractor shall ensure that the software products do not contain any functionalities which make it possible to weaken, circumvent or disable security functions and which were not made known to the Client at least in text form before delivery. He further ensures that the hardware and software do not allow unauthorized third parties to gain access to systems or data of the Client without his consent.
- 1.1.7 Manufacturer's Warranty: The Contractor will transfer any claims arising from a manufacturer's warranty - insofar as the manufacturer offers such a warranty generally - to the Client free of charge. As far as the Contractor himself is the manufacturer of the software, the Contractor will offer the Client a manufacturer's warranty customary in the industry free of charge.
- 1.1.8 Unless otherwise agreed, software maintenance includes in particular the following services:
- 1.1.9 Elimination of Defects: The Contractor assumes the elimination of defects of the software in the current and the respective previous version. If the Contractor offers the Client new software, in particular free patches, bug fixes, updates, upgrades, new releases, new versions, etc., in order to avoid or eliminate defects, the Client is obliged to accept these and install them on his hardware in accordance with the Contractor's installation instructions. The Client may reject the aforementioned form of remedy at least once without stating reasons and also the next time new software is installed if it does not have the same compatibility and functionality as the replaced software or if for other justified reasons the Client cannot reasonably be expected to use it. In the case of defects that can be easily and simply remedied directly by the user, the Contractor can support the Client by telephone in the form of user-suitable instructions for action. If the Contractor temporarily provides the Client with a workaround, the Contractor's obligation to remedy the defect permanently remains unaffected.
- 1.1.10 Software Modification/Improvement: The Contractor undertakes to provide the Client with existing, generally offered and released updates as well as new software versions free of charge in order to improve the software provided. In case of software changes, the Contractor will, if necessary, instruct the Client's Personnel in the new software version in due time without separate remuneration.
- 1.1.11 Further Development: Contractor shall further develop the software and provide further development to Client in the form of free updates, upgrades, releases or versions. The Client has the opportunity to make suggestions for possible further developments. The Contractor will seriously examine these. A claim of the Client for realization/implementation of these suggestions requires a separate order. Insofar as Client-specific adaptations have been made to the software, the Contractor will take these into account in the course of further development.
- 1.1.12 User Support: The Contractor shall provide user support for the respective version of the software in use at the Client and shall regularly inform the Client of general user instructions and other special instructions and information on important questions and problems in connection with the software. He will support the Client regarding further application possibilities and problem solutions of the software and inform about new products.
- 1.1.13 Telephone Service: During the agreed service hours, the Contractor shall provide telephone advice and (user) support by telephone in the event of defects, application problems, malfunctions or other difficulties arising in connection with software processes.
- 1.1.14 Remote Diagnosis/Troubleshooting: After prior consultation with the Client, the Contractor is entitled to carry out remote diagnosis and remote troubleshooting as follows: The Contractor is available to the Client during the agreed service times for diagnosis and processing of occurring defects, application problems, malfunctions or other difficulties in connection with the functioning of the software via remote access (VPN connection or remote desktop sharing).
- 1.1.15 Documentation: If the software is modified on the basis of this Agreement, e.g. if a defect is remedied or if new software is delivered, Contractor shall make a corresponding addition/update to the user manual and the installation instructions for the software ("Documentation") with an explanation of the resulting changes. The documentation shall be updated in type (paper or electronic form) and scope according to the ideas and requirements of the Client.
- 1.1.16 Adaptation to Changed Standards: If mandatory legal framework conditions (i.e. mandatory laws, legal ordinances, regulatory requirements) which are relevant to the intended use of the software change, the Contractor shall provide appropriate adaptations within a reasonable period of time free of charge within the scope of its operational and economic possibilities. This obligation shall not apply if the adaptation only involves unreasonable work for Contractor and Contractor has sufficiently explained the reasons for the unreasonable work to Client. In such a case, the adjustment can only be carried out against a corresponding additional remuneration if the Client has commissioned this in advance.
- 1.1.17 Service Level: The Service Level Agreement as per Appendix 1 applies.
- 1.1.18 Security: If software in the form of patches, bug fixes, updates, upgrades, new releases, new versions, etc. is provided within the scope of software maintenance, the Contractor shall ensure that the software does not contain any functionalities which make it possible to weaken, circumvent or disable security functions and which have not been made

known to the Client at least in text form prior to delivery. In particular, he shall ensure that this software does not enable unauthorized third parties to gain access to systems or data of the Client without his consent.

Part C
Service Level Agreement

1. Service Level Table

	error class 1	error class 2	error class 3
Service time of the Contractor	24x7	Mon. - Fri., 8.00 - 18.00 o'clock with the exception of national national holiday ("public holidays"). These holidays are treated like Sundays.	
Acceptance of requests from the Client (Incidents)	< 1 minute		
Response time	< 10 minutes	< 20 minutes	appropriate
Troubleshooting time	< 2 hours	< 4 hours	appropriate
Status report: Status of bug fixing	Every 60 minutes	Every 90 minutes	appropriate
Post Mortem Report	2 working days after error correction	5 working days after error correction	–
Maximum number of faults	3 per year	6 per year	12 per year

Contractual penalties for non-compliance

	error class 1	error class 2	error class 3
Troubleshooting within the service hours	> 2 h: - 10 % > 4 h: - 30 % > 6 h: - 70 % > 8 h: - 100 % > each additional 4 hour period: each - 100	> 4 h: - 10 % > 6 h: - 25 % > 8 h: - 50 % > each additional 8 hour period: each - 100	–

The non-performance credits are calculated as a percentage of the average monthly remuneration to be paid during the basic term of the contract. Otherwise, Section 6.6 shall apply.

2. Service Desk, error message

- 2.1. The Contractor accepts error messages from the Client by telephone, e-mail or fax at the service times defined in the service level table.
- 2.2. The Client can fix error messages - if necessary subsequently - at least in text form and assign the errors to a category according to section 3
- 2.3. The Client can summarize already reported and newly detected errors in open-point lists and send them to the Contractor. The following provisions shall apply accordingly to the errors contained in these lists.

3. Error categories

Defects are assigned by the Client to the following categories: operation-preventing defects (defect class 1), operation-impeding defects (defect class 2) and other defects (defect class 3). After adaptation/processing of an error, the classified error category can be changed. The definition of the error category is determined by the following classification:

- 3.1. **Error class 1:** An error preventing operation exists if the use of the hardware or the use of a maintained system/program is impossible or severely restricted, for example due to malfunctions, incorrect work results or response times. There are no functions available that can replace the disturbed function ("bypass solution").
- 3.2. **Failure class 2:** A failure that impedes operation exists if the use of the hardware or the use of a maintained system/program is partially impossible or severely restricted, for example due to malfunctions, incorrect work results or response times, and there is a bypass solution of a type and scope that is reasonable for the Client and can be used temporarily.
- 3.3. **Failure class 3:** Another failure exists if the use of the hardware or the use of a maintained system/program is not and/or not significantly affected. Example: Unfavorably defined basic settings, missing desirable functions/extensions ("Nice-to-have functions"), deficiencies in the documentation, impairment of the ease of use, in each case without impairment of functions.

4. Response times and troubleshooting

- 4.1. **Fault class 1:** In the case of operation-preventing faults, the Contractor begins troubleshooting within the reaction time defined in the service level table after the Client has reported the fault - if necessary, also on site - and continues to do so without interruption, i.e. 24 hours a day, 7 days a week, in consultation with the Client until the fault has been rectified. The Contractor undertakes to eliminate an operation-preventing error within the error elimination time defined in the service level table and will remain in constant contact with the Client during this phase.
- 4.2. **Error class 2:** In the case of errors that hinder operations, the Contractor begins to correct the error within the response time defined in the service level table after the error message is issued by the Client - if necessary, also on site - and continues to do so without interruption on the days defined in the service level table and within the support times defined in the service level table in consultation with the Client until the error is corrected. In the case of particularly serious errors that hinder operation, the Client can demand uninterrupted error correction during the support hours defined for the errors that prevent operation (error class 1) in accordance with the service level table.

4.3. **Error class 3:** Other errors are eliminated in a reaction and elimination time appropriate to the severity of the error, unless otherwise defined in the service level table.

4.4. **Troubleshooting**

This section shall only apply in the case of the provision of standard software.

The Contractor shall remedy any defects of which he becomes aware at his own discretion, in particular by one of the following measures:

- (i) Transmission of a patch/bugfix as well as the execution of the installation if requested by the Client.
- (ii) Transmission of a new program version that does not contain the defect. In the case of defects of defect class 1, a workaround that is reasonable for the Client shall be provided in advance within the time required to remedy the defect according to the service level table.
- (iii) Instructions to the Client to circumvent the defect (workaround) or to remedy the defect. The Client will implement these instructions as far as this is reasonable for him. The Client is free to accept the correction of the defect in accordance with this section as a final or only provisional correction of the defect. If the Client informs the Contractor that the correction of the error is only provisional, the Contractor is obliged to achieve a final correction of the error within a reasonable time.

Troubleshooting also includes fixing the consequences of the error, for example in the data.

4.5. **Reaction time:** Reaction is considered to be any reasonable action taken by the Contractor to start searching for the cause of the error. The reaction time is therefore the time from the time of the error message by the Client until the action is taken.

4.6. **Troubleshooting time:** The Contractor undertakes to remedy faults within the troubleshooting times specified in the Service Level Table. Troubleshooting time is the time from the time of the error message by the Client until the Client confirms that the error has been corrected. Confirmation of the error correction by the Client is provided by signing the error correction protocol in accordance with Section 5.5.

4.7. **Status reports:** The Contractor informs the Client continuously in intervals corresponding to the severity of the error by means of status reports issued by telephone, fax, e-mail or online reporting about the status of error analysis and elimination. The times defined in the service level table, within which status reports are to be delivered, are to be fulfilled at a minimum, regardless of the severity of the error. In individual cases, the parties may agree on a different sensible cycle.

4.8. **Early Warning:** If the Contractor has received an error of error class 1 reported by other Clients or by the manufacturer, the Contractor will report this error and the necessary or recommended measures to be taken to eliminate the error within the deadlines defined in the service level table and will start implementing the measures at the Client's site. The troubleshooting times defined in the service level table apply accordingly. The time period starts from the successful troubleshooting of the Contractor at another Client or after notification by the manufacturer.

4.9. **Interfaces to other systems:** If the hardware or the system/software is connected to other systems via interfaces and the Client detects faults in these or other systems to be connected in the future, which cannot be excluded that they may be caused by the hardware or the system/software of the Contractor, the Contractor is obliged to proceed according to the regulations of this Service Level Agreement until it is clearly established that the fault was not caused by the hardware or the system/software of the Contractor.

4.10. **Adaptation of the documentation:** In the event of hardware changes/improvements or program changes/improvements and troubleshooting, the documentation is adapted within the periods defined in the service level table. The periods begin to run at the time when the parties agree on the success of the error correction.

4.11. **Reimbursement of expenses:** If the Contractor determines that an error reported by the Client does not actually exist or is not attributable to the hardware or the system/software of the Contractor, the Contractor shall be entitled to charge the Client for the expenses incurred with the analysis and other processing in accordance with the current price list, provided that the Client is guilty of intent or gross negligence when reporting the error.

5. Error Reporting

5.1. Together with the first status report in accordance with Section 4.7 Contractor shall send the Client an error report by fax or e-mail, in which the following points are recorded (i) Time of the first error message or error detection, (ii) Description of the error by Contractor (iii) Procedure for analysis and correction of the error by Contractor; (iv) Estimated time for correction of the error

5.2. If the time for rectification of the defect stated by the Contractor is not acceptable to the Client, the Client may demand further measures. In this case, the Contractor is obliged to discuss the implementation of the further measures with the Client without delay and to reach agreement on the details of the further measures and their costs.

5.3. In cases in which the estimated or actual time required to correct errors that prevent or hinder operations leads to considerable impairment of business operations or if there are differences of opinion about the manner in which the errors can be meaningfully corrected, the Client can demand the involvement of a neutral expert third party in the error analysis. The Contractor is obliged to cooperate with the third party and to provide him with all information necessary for error analysis. If only the involvement of the third party enables the elimination of the error or if his involvement leads to the fact that the time for elimination of the error can be considerably shortened compared to the time period indicated by the Contractor or the impairments associated with the error can be considerably reduced, the Contractor shall bear the costs of the involvement of the third party. Instead of involving an expert third party, the parties may also agree on an internal escalation. If no agreement is reached here, the expert third party can be called in immediately.

5.4. **Troubleshooting log:** After elimination of the respective error, the Contractor will send the Client a troubleshooting report. The troubleshooting protocol contains the test measures to be taken to verify the troubleshooting. The Client shall immediately check the success of the error correction measures taken. The error is only considered eliminated after the error correction has been checked and the error correction protocol has been signed by the Client.

5.5. **Post-Mortem Report:** After the respective error has been corrected, the Contractor shall send the Client a detailed error correction report (Post-Mortem Report) within the periods specified in the Service Level Table, which documents the cause of the error, the measures and changes made to correct the error and the test measures taken to verify the error correction.

6. Delays and other service disruptions / right of termination

6.1. The agreed reaction, error correction and performance times and deadlines are binding. Impediments and delays must be reported immediately at least in text form with an exact description of the circumstances and with calculation of the additional time required.

6.2. After setting a reasonable grace period, the Client shall be entitled to commission the work to another company and to charge the costs to the Contractor ("substitute performance"). In addition, the Client may assert the statutory rights.

6.3. Clause 6.2 apply accordingly if Contractor repeatedly fails to comply with the response times and fault rectification times defined in the Service Level Table or interrupts fault rectification before the fault has been rectified, fails to rectify faults within reasonable or contractually agreed periods and in the event of other significant breaches of duty.

6.4. In the case of the provision of standard software: If the Client makes use of his right to substitute performance regulated in Section 6.2 and if the source code is not available to the Client, the Contractor shall immediately provide the source code to the Client with all associated information and documents. The material to be deposited must be suitable for generating the version of the software/system which the Contractor last handed over to the Client.

6.5. The Contractor shall not be responsible for delays if the Client has changed the hardware or the software without the Contractor's consent and the Contractor proves that the changes make it significantly more difficult or impossible to correct the error. This shall not apply if the Client has carried out system parameterization measures in accordance with the manual. The Contractor guarantees that no defects will occur.

6.6. In the event that the fault rectification times defined in the service level table are exceeded, if the Contractor is unable to demonstrate its nonrepresentation, the Client may demand the non-performance credits defined in the service level table in addition to and without prejudice to its other rights. Unless otherwise provided in Section 1 the non-performance credits are calculated as a percentage of the average monthly fee payable during the basic term of the Agreement. The non-performance credit notes shall be offset against the next due remuneration for the care services owed and shall be shown accordingly on the invoices. The Client reserves the right to assert further claims.

6.7. **Maximum number of faults:** The Client is entitled to terminate the hardware maintenance agreement or the software maintenance agreement in whole or in part with extraordinary notice of 10 working days if the maximum number of faults defined in the service level table has been exceeded and if the faults were caused by the Contractor. The termination shall be issued within 2 months after the maximum number of faults has been exceeded. If the remuneration for the services of the Contractor has already been paid (advance payment), it shall be reimbursed proportionally. The Client reserves the right to assert further claims.