



Sowohl die deutsche als auch die englische Sprachversion dieser Allgemeinen Geschäftsbedingungen sind Bestandteil des Vertrags. Bei Widersprüchen geht die deutsche Sprachversion vor.

Both the German and the English version of these General Terms and Conditions of Business shall be components of the contract. In the event of contradictions the German version shall prevail.

General Terms and Conditions for Services of the CGI Germany

Definitions

For the purposes of these General Terms and Conditions (hereinafter referred to as "Terms and Conditions") the following terms have a special meaning:

"ACCEPTANCE" and "ACCEPTED"	SOLUTIONS and other work performances will have been ACCEPTED by the Client when they have either passed the ACCEPTANCE TESTS or are deemed ACCEPTED within the meaning of Section 9.
"ACCEPTANCE TESTS"	are the tests described in the ACCEPTANCE TEST DESCRIPTION.
"ACCEPTANCE TEST DESCRIPTION"	is the document in which are described the ACCEPTANCE TESTS which the SOLUTION is to undergo to determine whether the SOLUTION, using the test data and the test environment, essentially functions in accordance with the SPECIFICATION after passing through the specified test steps and after the evaluation on the basis of the acceptance criteria. For other work performances the ACCEPTANCE TEST DESCRIPTION contains ACCEPTANCE TESTS to determine the conformity of the SERVICE with the contract.
"CONSULTANCY"	Means the Services identified as Consultancy Services in the SPECIFICATION or any other written document agreed by the Parties.
"DOCUMENTATION"	is the documents to be delivered by CGI in accordance with the SPECIFICATION.
"EQUIPMENT"	is the objects including the hardware to be delivered by CGI pursuant to the SPECIFICATION.
"SERVICES"	are all SERVICES to be performed by CGI in accordance with the SPECIFICATION or any other written agreement concluded between the parties.
"SOLUTION"	is the aggregate of the EQUIPMENT and of the SOFTWARE pursuant to the SPECIFICATION.
"INDUSTRIAL PROPERTY RIGHTS"	are rights in trademarks, patents, utility models and registered designs, copyright and exploitation rights, rights to use a name, know-how rights, goodwill, trade and business secrets and other comparably protected rights in other countries.
"SOFTWARE"	is proprietary computer programs to be delivered and licensed by CGI in accordance with the SPECIFICATION. For the avoidance of doubt, this does not include Third Party Software
"THIRD PARTY SOFTWARE"	Means computer programs licensed to the Client by a third party. Licenses for Third Party Software which is specifically identified in the SPECIFICATION shall be arranged by CGI for the Client.
"SPECIFICATION"	is the document in which are described the SERVICES and the requirements to be satisfied by the SOLUTION.
"STANDARD REMUNERATION"	is the rates as may be fixed from time to time, which are generally charged by CGI for consultancy and other services per time unit according to its division-related prices lists applicable at the time.
"REMUNERATION"	is the contractually agreed REMUNERATION for SERVICES to be performed by



CGI and all other amounts owed by the Client under the contractual relationship with CGI;

or, as the case may be,

is the agreed hourly rates for SERVICES of CGI or, if no agreement was made, the STANDARD REMUNERATION.

“LIMITATION PERIOD FOR RIGHTS BASED ON DEFECTS”

is the period which, in the case of work performances, begins on the date of the ACCEPTANCE and, in the case of a purchase, upon the delivery of the object, and the duration of which is determined by the SPECIFICATION. If the SPECIFICATION lacks a provision concerning the LIMITATION PERIOD FOR RIGHTS BASED ON DEFECTS, this period will amount to 12 months in each case.

“CONFIDENTIAL INFORMATION”

is all objects (including SOFTWARE), documents (including the DOCUMENTATION), ideas, know-how, data and other information, in whatever form they exist, which

- (a) relate to research and development of either of the parties, its business or trade secrets or business affairs; or
- (b) are termed confidential or are confidential by nature,

and which are made available within the framework of the contract by one of the parties or by an enterprise related to one of the parties within the meaning of Section 15 of the German Stock Corporation Act (*AktG*) or by a representative of the party to the other party. Exempt is confidential information which

- (i) is already known to the receiving party at the time when disclosed by the disclosing party, without any other obligation to maintain secrecy having been infringed,
- (ii) is known to the public, or later becomes known to the public without any infringement of these provisions by the receiving party,
- (iii) a third party has made available to the receiving party, provided that the third party has not thereby committed any infringement of duties of secrecy perceptible to the receiving party, or
- (iv) was independently developed by the receiving party without using the Confidential Information.

“WORK PERFORMANCE”

means the performance of services (not being SERVICES) for the production of an agreed result as stated in the SPECIFICATION.

1. Area of application and conclusion of contracts

1.1 These Terms and Conditions apply to all contracts or offers to enter into contracts between a CGI company (“CGI”) and the Client concerning the delivery of SOLUTIONS, SOFTWARE or other works and to all consultancy services and other services offered. The Terms and Conditions do not apply in the case of software maintenance by CGI and in the case of software rental.

1.2 CGI is bound by offers for four weeks unless the offer is expressly termed not binding.

1.3 The contract comes into being, incorporating these Terms and Conditions, as a result of being signed, but upon receipt of a SERVICE performed by CGI on the basis of an offer submitted to the Client at the latest.

1.4 These Terms and Conditions of CGI apply exclusively. CGI rejects any terms and conditions of the Client to the contrary or deviating from these Terms and Conditions unless CGI expressly consents to their validity in writing. This will apply even if CGI performs its SERVICES without reservation with knowledge of terms and conditions of the Client to the contrary or deviating from these Terms and Conditions.

1.5 The conclusion of an initial contract results in these Terms and Conditions also becoming an integral part of all future transactions concluded between the parties, unless otherwise expressly agreed.

2. Performance of SERVICES and SPECIFICATION

2.1 The SERVICES actually to be performed by CGI and the scope of services are definitively stipulated in the SPECIFICATION. Performance and quality descriptions do not constitute any guarantees. A guarantee is given exclusively by making a guarantee undertaking issued separately in writing. In the event of material defects and defects of title CGI is exclusively liable in accordance with these Terms and Conditions.

2.2 If the SPECIFICATION has not yet been agreed at the time of conclusion of the contract, CGI must draw up this in accordance with the requirements notified by the Client and present a draft thereof to the Client for review and coordination.



The Client is responsible for checking whether its requirements have been correctly and completely stated in the draft SPECIFICATION. CGI reserves the right to suspend performance of the SERVICES until the SPECIFICATION has been agreed with binding effect.

2.3 Unless otherwise agreed in writing, CGI must support the Client through the SERVICES stipulated in the SPECIFICATION. No result and therefore no work performance is owed by CGI, unless expressly agreed in writing. If the parties agree that the SERVICES must be invoiced for by CGI according to time spent and materials costs, it must be presumed in case of doubt that a result is not owed. If CGI's performance consists in drawing up a concept, this will involve a service. CGI must perform consultancy and other services carefully and using generally accepted state-of-the-art technology. If the parties agree that CGI is to procure DOCUMENTATION of third-party software (manufacturer's documentation), CGI will merely be obliged to deliver the manufacturer's documentation to the Client.

2.4 For the SERVICES to be performed under the contract CGI must deploy staff with the necessary qualifications. CGI is entitled to decide itself which staff will be deployed and to substitute staff at any time.

2.5 The Client may demand in writing the withdrawal of individual staff members deployed by CGI to perform the SERVICES. If the Client clearly states understandable reasons for this request, CGI will not be entitled to refuse its consent without reasonable cause. Costs and expenditure thereby incurred by CGI must be borne by the Client, unless there are serious reasons for substituting the staff. Such reasons will exist if it can be proved that the staff member does not have the agreed qualifications, the staff member's performance fails to comply with the agreed standards or the staff member disturbs the peace at the Client's firm.

2.6 CGI must consult the Client about the holiday scheduling of the deployed staff and attempt to coordinate holiday periods with the Client. The Client's consent is not required.

2.7 CGI is entitled to have the SERVICES performed by third parties without the Client's prior consent.

2.8 CGI is entitled to determine the place of performance, unless otherwise agreed in writing.

2.9 CGI must perform the SERVICES in accordance with the law in force at the time of conclusion of the contract. If such law changes during the term of the contract and changes to CGI's SERVICES become necessary as a result, these changes must be handled in accordance with the procedure stipulated in Section 8.

3. Status reports and meetings

CGI must inform the Client about the progress of the SERVICES until the ACCEPTANCE of work performances or of other performance of the contracts. Furthermore, at either party's request the parties must hold meetings to inform each other of the progress. Unless otherwise agreed in writing, any meetings and status reports must be held and delivered respectively once a month.

4. Fixed dates, terms, delays and force majeure

4.1 Fixed dates and terms are not binding unless stipulated as binding expressly and in writing.

4.2 If the Client does not perform a service to be performed by it or does not perform this on time or entirely (e.g. duty to cooperate not performed on time), fixed dates and terms stipulated with binding effect must be correspondingly prolonged for SERVICES of CGI. If CGI incurs additional expenses as a result of the delay by the Client, the Client must pay the STANDARD REMUNERATION for this. CGI must promptly inform the Client of the delay and of additional costs and expenses which have already been incurred or will probably be incurred as a result of the delay.

4.3 CGI will have failed to perform on time only if the Client has given CGI a prior written warning and unsuccessfully given it a reasonable deadline to perform.

4.4 If the performance of a service or duty to cooperate under the contract by a party is delayed or rendered temporarily impossible owing to circumstances beyond its control (cases of force majeure, e.g. industrial action, warlike or terrorist acts, a network failure for which neither party is responsible), agreed fixed dates must be prolonged by a period corresponding to the duration of the circumstance. The party concerned must inform the other party in writing without undue delay of the impossibility of performing the SERVICES. If these circumstances exist for a period of more than 90 days, each party will be entitled to terminate the contract in writing with immediate effect without complying with any period of notice. In this case the Client must pay CGI a reasonable REMUNERATION for SERVICES already performed and compensation which includes the costs and expenses which have already been incurred by CGI in connection with the SERVICES and which prove futile.

5. REMUNERATION and terms of payment

5.1 The agreed REMUNERATION is indicated in the SPECIFICATION, unless the parties have otherwise agreed. CGI must invoice the Client for the SERVICES in accordance with the offered or otherwise agreed payment schedule. SERVICES of CGI for which no REMUNERATION has been agreed or SERVICES which are performed at the Client's request, but are not included in the SPECIFICATION (additional services), and which the Client must pay for separately must be invoiced for according to expenditure and in accordance with the STANDARD REMUNERATION, unless otherwise agreed in writing.

5.2 In addition to the REMUNERATION the Client must assume any out-of-pocket expenses, particularly travelling and subsistence expenses of CGI staff, which are necessary for the performance of SERVICES by CGI or were caused by the Client. CGI must be remunerated for travel time at the agreed hourly rate. The Client must pay the STANDARD REMUNERATION failing special agreement to this effect. The Client must bear all taxes, charges, customs duties, costs of payment transactions and managerial costs accruing in connection with the performance of the SERVICES. All amounts are plus the then prevailing statutory rate of value added tax.

5.3 Invoiced amounts fall due immediately and without any deduction and are payable within 30 calendar days of receipt of invoice.



- 5.4** If it defaults in payment the Client must pay default interest of 8 percentage points above the basic interest rate per annum.
- 5.5** If the Client defaults in payment, CGI may – notwithstanding the legal rights in case of default – give the Client a deadline of at least 14 days threatening to suspend the SERVICES if the Client does not pay. If CGI suspends the SERVICES when the deadline has expired without results, it will be entitled to demand of the Client a refund of additional costs and expenses incurred in the course of the suspension of the SERVICES. Section 4.2 applies during the default in payment.
- 5.6** The Client may make a set-off or assert a right of retention with regard to claims of its own only to the extent that its claims have been recognized by a final and absolute court finding, are uncontested or are acknowledged.

6. Cooperation on the part of the Client

- 6.1** The Client must ensure that it provides in good time and free of charge for CGI all the assistance required for the performance of the SERVICES owed by CGI.
- 6.2** The Client must name an authorized contact person to CGI in writing. Should the Client decide to replace this contact, it must inform CGI of this fact and of the date in writing in good time. This contact
- is considered to be authorized to make and receive legally binding declarations on the Client's behalf and to make decisions binding on the Client, particularly concerning changes to the SERVICES;
 - must check without undue delay all documents which CGI hands over to the Client for review to enable CGI to correct or amend these documents if necessary;
 - must make available to CGI without undue delay the information concerning the Client which is required for the performance of the SERVICES;
 - must notify any required changes in good time.
- 6.3** The Client must ensure that staff assisting CGI with the performance of the SERVICES are available at the agreed times. The Client is responsible for ensuring that its staff has the necessary knowledge, skills and experience to perform the duties assigned to them.
- 6.4** The Client's duties to cooperate primarily include creating all the conditions required in its operating area for the proper performance of the SERVICES by CGI. Unless otherwise agreed, the Client must particularly
- make available at the agreed times the test data stipulated in the ACCEPTANCE TEST DESCRIPTION and the test environment which are required for the carrying out of the ACCEPTANCE TESTS;
 - prepare the premises on which the SOLUTION is to be installed;
 - at CGI's request make available to the staff of CGI or the staff of firms commissioned by CGI a sufficient number of rooms and a sufficient quantity of equipment and materials in accordance with CGI's instructions and give them access to the information required for the performance of the SERVICES and furnish them in good time with all the necessary documents;
 - at CGI's request make available status reports about the progress of the performance of its duties to cooperate;
 - to the extent required for the performance of SERVICES by CGI, procure in good time necessary software licences for third-party software or hardware and obtain from third parties the required consent to the use of software by CGI;
 - give access to the IT systems required for the performance of the SERVICES, make available adequate computer times and, if necessary, discontinue other work with the relevant IT systems for the required period;
 - make available a working remote access in case of need;
 - save and verify data on its sole responsibility before and as long as these data are used together with the SERVICES performed by CGI.
- 6.5** If the Client realizes that CGI is working on false assumptions or that its instructions are incorrect or incomplete, it must inform CGI in writing without undue delay.
- 6.6** If CGI is, in cases of contracts payable on grounds of time and material, prevented from performing the SERVICES under the contract by circumstances for which the Client is solely or mainly responsible (e.g. the Client does not give assistance or does not give assistance in good time or adequately), CGI will be entitled to the REMUNERATION which would probably have been payable for the duration of these circumstances. However, CGI must allow to be offset what CGI earns or could have earned in consequence of being released from performance of the SERVICES during this period or as result of employing its working capacity elsewhere. Agreed fixed dates and terms for SERVICES of CGI must be postponed by a reasonable period.
- 6.7** The Client is responsible for insuring part performances as from the passing of risk.

7. Staff

- 7.1** Each party is responsible for ensuring that the staff deployed by it observe the respective other party's rules and regulations applicable to the business premises at the time if these staff have been given prior notice of the rules. CGI's staff are exclusively subject to CGI's right of command and control.
- 7.2** Before the end of 6 months after performance of all obligations arising from a contract concluded between the parties (including the limitation period for rights based on defects) no party may poach, directly or indirectly through third parties, staff of the other party for purposes of recruiting or employing them without the other party's prior written consent. Staff member for the purposes of this clause is any employee and any other natural person deployed by one of the parties on a considerable scale in connection with the performance of the contract.
- 7.3** In the event of infringement of Section 7.2, the parties agree that the infringing party must pay a contractual penalty to the other party. The penalty amounts to one gross annual target salary of the staff member concerned in the preceding 12 months. The parties agree that this represents compensation for the costs of recruiting and training an adequate substitute. The parties agree that the infringing party must demonstrate and prove that no poaching of staff occurred. The claim for payment of the penalty does not exclude claims for compensation for any more extensive damage.



8. Changes to the SERVICES (change request)

8.1 Each party may submit a change request. In the event of work performances the change request must be submitted by the ACCEPTANCE at the latest and in the case of consultancy and other services by the commencement of the performance of the SERVICE at the latest. Change requests must be submitted in writing.

8.2 CGI must inform the Client in writing if, according to CGI's factually well-founded assessment, the change request necessitates additional SERVICES or an additional time request and/or if the change request has not just a negligible effect on the deployed staff or resources. The Client must instruct CGI in writing to review the effects. CGI may make the commencement of the review contingent on this instruction.

8.3 In the event of a change to the SERVICES, the agreed REMUNERATION and agreed fixed dates must be appropriately adjusted taking into account the expense incurred by CGI for the review of the change request.

8.4 If the parties agree after reviewing a change request that no change is to be made to the SERVICES, the Client must in any event pay the STANDARD REMUNERATION for the review of the change request.

8.5 If the parties agree to change the SERVICES, they must stipulate the scope and details of the change to the SERVICES in writing and amend the SPECIFICATION accordingly. As long as the change including the REMUNERATION, the time scheduling and the delivery dates have not been stipulated in writing, CGI will not be obliged to carry out the change to the SERVICES. If no such agreement is made, CGI will be entitled to perform the SERVICE under the contract as initially agreed.

9. ACCEPTANCE of work performances

9.1 If CGI renders work performance on the Client's behalf, the law relating to contracts to produce a result will be deemed agreed in this regard. Work performances are subject to ACCEPTANCE by the Client in accordance with Section 9.2-9.7 of these Terms and Conditions. The SERVICES to be performed by CGI will only be work performances if the parties expressly agreed on a result in writing (Section 2.3).

9.2 CGI must draw up the ACCEPTANCE TEST DESCRIPTION for the Client, which the Client must examine and release without undue delay.

9.3 CGI must give the Client notice of the readiness for acceptance of the respective SERVICES in written or text form. CGI may demand ACCEPTANCE of partial SERVICES if these involve self-contained service parts or the parties have stipulated this.

9.4 The Client is obliged to check without undue delay that the SERVICES performed by CGI and made available for ACCEPTANCE conform with the contract. The period for making checks amounts to seven (7) calendar days from receipt by the Client of CGI's written notice or Email-notice of the readiness for acceptance according to Section 9.3 above. CGI is entitled to attend every ACCEPTANCE or partial acceptance and to monitor the carrying out of ACCEPTANCE TESTS.

9.5 Work performances must be deemed ACCEPTED if they have passed the ACCEPTANCE TESTS provided for in the ACCEPTANCE TEST DESCRIPTION and the Client has not given within the period for making the checks referred to in Section 9.4 any written notice of errors preventing the ACCEPTANCE (error notification). Section 11.3 applies by analogy to the error notification.

Errors preventing the ACCEPTANCE are

- (a) errors which result in the SERVICE as a whole or in the part of the SERVICE to be accepted not being able to be used;
- (b) errors which cause significant restrictions of use for important functions.

Errors not preventing the ACCEPTANCE are

- (a) errors which were already recognized by the Client in the course of the cooperation before the carrying out of the ACCEPTANCE TEST and were not notified to CGI in writing; or
- (b) immaterial or minor errors.

CGI is entitled to assign errors to an error category.

9.6 If the Client justifiably refuses the ACCEPTANCE, CGI must remedy the errors preventing the ACCEPTANCE within a reasonable period and give the Client written notice of the readiness for acceptance once more. The parties must then carry out the ACCEPTANCE TEST or parts of the ACCEPTANCE TEST once more and in accordance with this Section 9 until it is successful.

9.7 Work performances are deemed definitely ACCEPTED if the Client uses these in the course of its business over a four-week period without having given notice of errors preventing the ACCEPTANCE.

9.8 If CGI's work performance consists in preparing DOCUMENTATION or a concept, the provisions in Section 10.2 apply.

10. Results of consultancy services and DOCUMENTATION

10.1 Consultancy and other services to be performed by CGI are not subject to ACCEPTANCE. CGI must send the Client a draft of the results of the services (e.g. DOCUMENTATION and concepts) for the purpose of releasing the same. If the Client does not make any written requests for changes within fourteen (14) days of receipt of the results, CGI must make available the results of the SERVICES to the Client in their final form. If the Client informs CGI of a request for changes within the release period, CGI and the Client must attempt to reach an agreement on the change request. CGI must take agreed changes into account in the results of the SERVICES and make available the results of the SERVICES to the Client once more.

10.2 If the parties have expressly agreed in writing that the DOCUMENTATION or concepts involve a work performance to be rendered by CGI, the Client must review these within five (5) working days of the final version being sent and declare the ACCEPTANCE if the DOCUMENTATION has no substantial errors. Substantial errors must be notified to CGI within the period referred to in the above sentence. Section 9.6 applies by analogy. The DOCUMENTATION and/or the concept are deemed ACCEPTED unless the Client gives written notice of substantial errors within the period referred to in sentence 1.



11. Client's rights in the event of defects

11.1 Insofar as CGI renders work performances for the Client, Sections 11.2-11.9 below apply to the Client's rights based on defects.

11.2 CGI warrants that the results of the SERVICES to be performed under the contractual agreements comply with the agreed requirements and do not have defects which render them unfit or significantly impair their fitness. Defects which depreciate the value or impair the fitness of the results only negligibly must be left out of account. The defect will be immaterial particularly if it can be remedied by the Client itself quickly and at low cost.

11.3 Assertion of warranty rights for defects for which CGI is not responsible is excluded. To trace the cause, the Client undertakes to notify the defect and the circumstances under which it occurs in writing without undue delay in an understandable form indicating the information appropriate for identifying the defects to enable CGI to check for and exclude an operating error. This entails giving correct details of in which procedures and program functions malfunctions occurred and in what manner these became apparent through certain error notifications. If the Client does not perform its duty laid down in sentence 2 above, no warranty rights will exist. The Client is further obliged to do its best to cooperate with CGI in diagnosing and remedying the defect.

11.4 Duly notified defects must be remedied by CGI free of charge for the Client during business hours and within a reasonable period at its option either by way of a subsequent improvement or by creating a new work ("subsequent performance"). Unless otherwise agreed in writing, CGI is entitled to determine the place at which the remedying of defects will be carried out.

11.5 If defects exist, the Client may assert the legal rights to remedy the defects itself, including reimbursement of the expenses incurred for this, rescission of the contract, reduction of the REMUNERATION, damages and/or compensation for expenses only after it has given CGI a reasonable deadline for subsequent performance coupled with the declaration that it will refuse the subsequent performance pursuant to item Section 11.4 after expiry of the deadline, and the subsequent performance has not been effected within the deadline set. Moreover, damages or compensation for expenses may be claimed only if the conditions of Section 12 ("Liability") are additionally complied with. In the event of rescission or "damages in lieu of the entire performance", the Client must particularly delete all SOFTWARE or parts of SOFTWARE from all memories, destroy or to return to CGI all copies of the SOFTWARE and DOCUMENTATION and confirm both in writing.

11.6 The Client may not assert any rights based on defects if it changes or interferes with the results of the work performances unless it proves that the interference did not cause the defect.

11.7 If CGI takes action on the basis of an error notification without a defect having existed or without CGI being responsible for this (Section 11.3 sentence 1) and the Client has demanded that the defect be remedied, negligently unaware of these circumstances, CGI may demand the STANDARD REMUNERATION for the expenses incurred by CGI. This will apply even if CGI has taken action on the basis of an error notification without the Client having furnished the information about the cause of the error owed pursuant to Section 11.3 sentence 2.

11.8 If third firms commissioned by the Client are involved in the performance of the agreed SERVICES, CGI must not give any warranty for services, software, software components and/or work results for which these third firms are responsible.

11.9 The LIMITATION PERIOD FOR RIGHTS BASED ON DEFECTS commences on the date of ACCEPTANCE pursuant to Section 9 of these Terms and Conditions and, unless otherwise agreed, amounts to 12 months. This does not apply in the cases in which CGI has unlimited liability pursuant to Section 12 of these Terms and Conditions.

11.10 If the SERVICE to be performed by CGI consists in the delivery of EQUIPMENT and/or standard software, CGI must effect the delivery in accordance with the agreed SPECIFICATION and in accordance with the product description contained in the DOCUMENTATION of the SOFTWARE respectively. Any more extensive quality of the EQUIPMENT and/or standard software is not owed. The current version of the standard software at the time must be delivered, unless otherwise agreed.

11.11 With regard to EQUIPMENT and/or standard software CGI warrants that it has power of disposal and is the owner of the rights which are transferred to the Client under Section 15 respectively, and that the EQUIPMENT and/or the standard software is free from rights of third parties.

11.12 If EQUIPMENT and/or standard software are delivered, Sections 11.2-11.8 will apply by analogy. Section 11.9 applies subject to the proviso that the LIMITATION PERIOD FOR RIGHTS BASED ON DEFECTS begins to run when the EQUIPMENT or the standard software has been delivered.

11.13 If EQUIPMENT is replaced, the title to the replaced EQUIPMENT will pass to CGI again. The Client guarantees that the title will be retransferred free from encumbrances.

11.14 With regard to SOFTWARE, whether standard SOFTWARE or software individually created for the Client, the Client will have rights in the event of defects only to the extent that the Client has installed all software corrections delivered by CGI, has deployed the SOFTWARE within the agreed environment and in accordance with the SPECIFICATION and has not – subject to Section 15.4 – modified the SOFTWARE without CGI's consent. It is pointed out to the Client that it is not possible to exclude errors in SOFTWARE entirely. Therefore, errors which are not substantial do not constitute any defect within the meaning of this Section 11.

11.15 If third parties assert rights in the SERVICES performed by CGI and the use of the contractually owed SERVICE in conformity with the contract is thereby impaired, Section 16 (rights of third parties) will apply.

11.16 The above provisions do not apply to consultancy and other services to be performed by CGI.

12. Liability

12.1 The Client may claim damages in lieu of performance pursuant to Section 281 BGB or compensation for expenses under Section 284 BGB only after it has given CGI a reasonable deadline to effect the performance or subsequent performance coupled with the declaration that it will refuse the performance or subsequent performance after expiry of the deadline, and the performance or subsequent performance has not been effected within the deadline set.



12.2 Statutory liability for damages based on a guaranteed quality of the SERVICES is not restricted by this contract, subject to Section 12.1 above. Otherwise, CGI is exclusively liable in accordance with Sections 12.3 to 12.11 below.

12.3 CGI has unlimited liability subject to Sections 12.6 and 12.7 below only in the following cases:

- (a) in the event of damage caused intentionally or by gross negligence;
- (b) in the event of culpable breaches of duty by its legal representatives and managerial employees which result in injury to life, the body or health.

12.4 Unless a case according to item 12.3 (b) has occurred, CGI will be liable for slight negligence only if a duty is infringed, the compliance with which is of fundamental importance to the achievement of the purpose of the contract (cardinal duty). This also applies to acts of "Erfüllungsgehilfen" (persons employed in performing a contractual obligation for whom the principal is vicariously liable). In the event of a cardinal duty being infringed, liability is limited to the amount of the foreseeable damage typical of the contract.

12.5 Unless otherwise agreed, the respective REMUNERATION is considered to be foreseeable damage typical of the contract, and in the case of contracts for the performance of continuing obligations the annual REMUNERATION.

12.6 Apart from in cases of damage caused wilfully, CGI's liability for lost profit and other pure economic losses is excluded.

12.7 Liability for data loss is limited to the typical recovery expense which would have been incurred in making backup copies regularly and commensurate with the risk. Otherwise, liability for data loss exists only to the extent that the Client has ensured by appropriate data saving measures that the data can be reconstructed at reasonable cost from data material made available in machine-readable form.

12.8 The exclusions and limitations of liability according to Sections 12.2 to 12.7 above also apply to non-contractual liability.

12.9 Liability under the German Product Liability Act (*Produkthaftungsgesetz*) is not affected by the above provisions.

12.10 In the relationship between the Client and CGI, the Client is solely responsible for monitoring the products and work results delivered by CGI after they have been put into circulation (product monitoring duty) and for responding to any risks or dangers. The Client is obliged to inform CGI without undue delay of all errors, problems and/or risks in connection with the products and work results delivered by CGI. Solely the Client is liable for damage or infringements caused by an infringement of the product monitoring duty.

12.11 CGI does not assume any liability to the Client for damage caused by the fact that the third firms commissioned by the Client and involved in the performance of the SERVICES do not perform or perform late or do not perform properly.

13. Confidentiality, data protection, publications

13.1 Both parties must treat confidentially all CONFIDENTIAL INFORMATION about the respective other contracting party received by them and/or otherwise having become known to them, particularly trade and business secrets, must use this only for the performance of this contract and must neither publish nor disclose this to third parties. This obligation continues even after the termination of the contract for an indefinite period. CONFIDENTIAL INFORMATION may be brought to the knowledge of the parties' own staff or executive bodies or to those of related enterprises or to outside advisors only if the information is required for engaging in the activity concerned and these persons were instructed about the obligations of secrecy and were bound to secrecy in writing prior to the disclosure. Any publication of objects connected with the performance of the Services (including SOFTWARE) in words, writing, pictures or sound by one of the parties or third parties commissioned by it requires the other party's express prior written consent.

13.2 With due regard to the duties under Section 13.1 above CGI is entitled to publish general technical know-how or other know-how having come into being during the performance of the SERVICES under the contract and to use or exploit this without restriction.

13.3 Unless otherwise agreed, CGI is entitled to publicize in its publications the fact that the Client is its client.

13.4 The duty of secrecy will not have been violated if the disclosing party discloses the confidential information in discharge of a duty incumbent on it under a law, subordinate regulation or order by the court or an authority or the disclosure serves to safeguard claims of its own against the other party. However, the obligated party must keep the disclosure to a minimum and inform the other party, to the extent permissible by law, within a reasonable period upon obtaining knowledge and prior to the disclosure and to assist it in asserting justified defensive claims.

13.5 The parties are bound by the provisions of data protection laws and data protection regulations for the protection of personal data and by the provisions for the protection of telecommunications and banking secrecy, to the extent applicable. In so far as CGI within its contractual relationships processes data under sec. 11 German Federal Data Protection Act or any similar regulations of any German Federal Land (Contracted Data Processing) the Parties will conclude separate agreements on data processing observing the rules of sec. 11 German Federal Data Protection Act. The Controller/Client has in each case to ensure the legality of the collection, processing and use of the personal data. CGI is in so far not obliged to verify the legality of the collection, processing or use of the data. The Client must indemnify CGI against claims of third parties based on the fact that the collection, processing or use of personal data according to the contract was illegal. The above right of indemnity also comprises the costs of the legal defence.

13.6 The parties must impose the secrecy and data protection obligations on the staff and third parties working for them through suitable contractual agreements. The Client must keep contract and project documents, particularly any delivered source programs and DOCUMENTATION, in safe custody to rule out abuse.

14. Reservation of title and reservation of rights

CGI reserves title and all rights in the objects of performance until its entire claims under the contract have been settled in full. The Client must inform CGI in writing without undue delay in the event of third parties seizing the reserved property and notify third parties of CGI's rights.



15. Rights of use

15.1 CGI retains all rights in SOFTWARE or other objects of performance, particularly copyright, property rights and rights of use, to the extent that the Client is not expressly granted rights under these Terms and Conditions or under a written agreement. The Client acknowledges that the SOFTWARE created by CGI including user documentation is protected by copyright and is a trade secret.

15.2 In the SOFTWARE (standard software and individual software) delivered by CGI and other performance results the Client is granted a non-exclusive licence unlimited in time and space, which is transferable only if the Client waives its own use thereof and only with CGI's written consent.

15.3 If software of third firms which is marked as such ("extraneous software") is transferred to the Client, use restrictions provided for in the manufacturer's terms of the licence enclosed with this extraneous software must be pre-eminently observed.

15.4 Modification of the SOFTWARE by the Client is permitted only to the extent that this serves to remedy a defect and CGI is in default with the remedying of this defect or has refused to remedy the defect. The Client may commission a commercial third party to carry out the repairs only if there is no risk of the repairs disclosing important software functions.

15.5 Decompilation (retranslation) of any transferred software code is permitted only for the purpose of creating interoperability with other computer programs and only if the information required for this cannot be procured elsewhere. The Client must first request CGI for such information or, in the case of extraneous software, the respective manufacturer. CGI is prepared to furnish the Client with the necessary information, particularly through interfaces to other programs, for a separate REMUNERATION of the expense. This information may be made known to other contractors of the Client.

15.6 Removal of a copy protection or of similar protection routines is permitted only insofar as this protection mechanism impairs or prevents interference-free use of the SOFTWARE. The Client bears the burden of proving that interference-free usability is impaired or prevented. Commercial third parties may be entrusted with the necessary action for the purposes of sentence 1 of this Section only if CGI has not complied with the request to remedy the interference within a reasonable period. Insofar as the Client uses the services of a commercial third party, the provision in Section 15.4 sentence 2 will apply by analogy.

15.7 The Client is not authorized to remove or change names, trademarks, serial numbers or other identification marks and notices of industrial property rights in the SOFTWARE. The Client must include and reproduce such marks and notices in all copies of the SOFTWARE in the same form as in the original. If the originals bear a copyright notice, this notice must be affixed to the copies as well.

15.8 The Client may reproduce the user documentation exclusively for its own use.

15.9 The grant of the rights of use pursuant to this Section 15 presupposes full settlement of all claims of CGI under this contract, particularly payment of the REMUNERATION and the STANDARD REMUNERATION by the Client.

15.10 The provisions of this Section 15 apply by analogy to all other objects and DOCUMENTATION transferred to the Client in the course of the initiation and implementation of the contract, including subsequent performance.

16. Rights of third parties

16.1 CGI's liability under this Section 16 applies only to SERVICES owed under this contract. CGI is liable only within the liability limits of Section 12.

16.2 CGI warrants that the objects of performance (SERVICES, SOFTWARE, excluding THIRD PARTY SOFTWARE) owed under this contract are free of INDUSTRIAL PROPERTY RIGHTS of third parties in the area of the Federal Republic of Germany and that no other rights exist which restrict or exclude the use according to contract.

16.3 If third parties assert such rights, the Client must inform CGI in detail in writing without undue delay. CGI must do all in its power to defend at its expense the SERVICES performed by it and the SOFTWARE against the asserted rights of third parties. For this purpose the Client grants to CGI all the necessary powers of attorney and vests it with all the authority required for this. If the Client does not perform its obligations according to sentence 2 above, it will be obliged to reimburse CGI for the additional expenses incurred as result of the late information. CGI is entitled, at its discretion and at its expense, to make a decision alone on the legal defence and compromise negotiations and to satisfy or judicially repel asserted claims or to end the dispute by way of a compromise.

16.4 The Client may not acknowledge, nor settle claims of third parties without CGI's prior written consent. The Client is entitled to take over the negotiations or the judicial proceedings if CGI is unable to settle the matter within a reasonable period or CGI consents to this in writing. The Client must cooperate with CGI and appropriately assist CGI with the defence against the claims or with the negotiations. CGI must bear the reasonable costs thereby incurred by the Client.

16.5 If defects of title exist, CGI is obliged

- (a) at its option either to remove by lawful measures the rights of third parties impairing the contractual use of the SERVICE and/or SOFTWARE or their assertion, or to modify or replace the SERVICE and/or SOFTWARE in such a manner that it no longer infringes rights of third parties, if and to the extent that the guaranteed functionality of the SERVICE and/or SOFTWARE is not significantly adversely affected as a result; and
- (b) in the case of Section 16.4 sentence 2 to reimburse the Client for a reasonable amount of the legal defence costs incurred by the Client insofar as the Client undertakes the legal defence itself according to Section 16.4 above.

More extensive statutory claims remain unaffected.

16.6 CGI is not liable for infringement of patents if the patent was not applied for until after the contract took effect or if

- (a) the SERVICES concerned are used for purposes other than its released intended use;
- (b) the SERVICES – subject to Section 16.5 – were modified by the Client or a third party not authorized by CGI;
- (c) the SERVICES were developed on the basis of a concept of the Client encumbered with rights of third parties or the objects of performance comprise software, documents, ideas, data or other information which the Client made



available and which are encumbered with rights of third parties; or

(d) the SERVICES are used together with hardware or SOFTWARE which were not delivered by CGI under this contract.

16.7 The limitations of liability of Section 12 apply to all claims for damages and for reimbursement of expenses.

16.8 The rights granted to the Client under this Section 16 expire upon the earlier of: expiry of the LIMITATION PERIOD FOR RIGHTS BASED ON DEFECTS; expiry or termination of the rights to use under clause 15 above; or in the event that payment of any sum to CGI is not made within a reasonable time after it becomes due.

17. Term of the contract and termination

17.1 For work performances to be rendered by CGI the contract terminates only upon performance in full of the SERVICES owed by CGI under this contract.

17.2 With regard to consultancy and other services the contract is of unlimited duration. Each party may terminate the contractual relationship by giving one month's notice.

17.3 Each party is entitled to terminate the contractual relationship for good cause. Good cause will particularly be shown if

- (a) the other party seriously or repeatedly culpably infringes its contractual duties and culpably does not cease this breach of duty even after being given a notice setting a reasonable deadline, but within 30 days of receipt of the notice at the latest, so that the terminating party can no longer be reasonably expected to adhere to the contract. The party giving the notice must describe the breach of duty in the notice and name in this measures required to remedy the breach; or
- (b) insolvency proceedings are instituted against the other party's entire assets or part of its assets or are refused for insufficiency of assets and proper performance of the contract cannot be expected; or
- (c) there is a reasonable ground for commencing insolvency proceedings against the other party's assets (Sections 17-19 of the German Insolvency Code [*InsO*]) and proper performance of the contract cannot be expected; or
- (d) the other party's pecuniary circumstances deteriorate to such an extent that proper performance of the contract can no longer be expected, even if there is no ground for opening insolvency proceedings (Sections 17-19 *InsO*).

17.4 Notices of termination must be given in writing and sent to the address expressly mentioned in the contract, or if not stated in the contract, to the registered office address of the principal place of business of the other party. Any notice of termination sent by mail within Germany is deemed received at the latest on the 3rd working day after posting and a notice of termination sent by confirmed fax is deemed received on the following working day at the latest. All international notices of termination are deemed received on the 8th working day after posting.

18. Export control

18.1 The Client acknowledges that CGI's performance is contingent on the satisfaction of the following conditions:

- (a) CGI receives from the governments of Germany, the USA or other governments concerned all permits required for the export and re-export ("Permits"); and
- (b) the Client promptly makes available to CGI all the necessary documents, particularly International Import Certificates (IIC) and end use certificates, which are required to obtain the permits.

18.2 Only after obtaining the necessary permits will the Client be entitled to export and reimport the SERVICES, whether directly or indirectly through engaged third parties.

19. Integrity

Parties are obliged to be compliant with all applicable anti-corruption laws. In particular, Client guarantees that he will not offer, promise, or grant advantages of any kind neither to employees of CGI nor persons with close relationships to those. The same applies for employees of the Client and any auxiliary persons acting on behalf and under direction of the Client.

0. Disputes and applicable law

20.1 The parties must endeavour to settle differences about the contract amicably with the participation of the managing directors or other authorized representatives.

20.2 If the difference cannot be settled by negotiations, each party may at any time apply to the conciliation body of the German Law and Information Technology Society (*Deutsche Gesellschaft für Recht und Informatik e.V. [DGRI]*) to settle the dispute provisionally or definitely in whole or in part. The conciliation does not result in any commitment to findings of facts in the absence of an express written acknowledgement of both parties. The running of the limitation period and all cut-off periods for all claims arising from the facts which are the subject matter of the conciliation is interrupted from the request for conciliation until the end of the conciliation process. Section 203 BGB applies by analogy.

20.3 If the matter cannot be settled by the conciliation body within a period of thirty days after applying to this body, or if one of the parties objects to having recourse to the conciliation body, the ordinary courts may be applied to. In the case of temporary relief measures, the ordinary courts may be applied to at any time.

20.4 The conciliation rules of the DGRI can be obtained from the Deutsche Gesellschaft für Recht und Informatik e.V. (Tel.: (06712) 9209-30, Fax: (06712) 9209-33, email: Schlichtung@dgri.de) or called up on the Internet (www.dgri.de) under the heading "Schlichtungsordnung" (<http://www.dgri.de/schlichtung/schlichtungsordnung/>).

20.5 The courts at CGI's principal place of business have jurisdiction over all disputes in connection with this contract. CGI is also entitled to file an action at the Client's principal place of business.

20.6 The contract is governed by the laws of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods of 11 April 1980 (Vienna CISG Convention).



21. Concluding provisions

21.1 These Terms and Conditions in conjunction with the SPECIFICATION

- (a) supersede all preceding agreements, offers and declarations in respect of their subject matter,
- (b) are final; no verbal or written subsidiary agreements have been made.

21.2 The following order applies to the contractual stipulations relating to the contractual relationship:

- (a) SPECIFICATION
- (b) General Terms and Conditions
- (c) legal provisions

21.3 Supplements or amendments to the contract must satisfy the legal requirement of writing and be signed by an authorized representative of the respective parties. Otherwise, they will be null and void. This also applies to changes to this requirement of writing. Email communication without an electronic signature is not deemed to be in writing for the purposes of this requirement of writing.

21.4 The Client is not entitled to assign claims or to transfer the contract to third parties without CGI's express consent. Rights of third parties for the purposes of a contract for the benefit of third parties are not constituted by the contract.

21.5 The parties agree that the contract is not to have any protective effect for the benefit of third parties.

21.6 If either party fails to exercise its contractual rights in whole or in part or exercises its rights late, this alone will not constitute a waiver of these rights.

21.7 Claims of the Client become barred by limitation after two (2) years, beginning on the date on which the claim arose and the Client became aware or ought reasonably to have become aware without gross negligence of the circumstances constituting the claim, unless the claims involve personal injury caused by a negligent breach of duty by CGI or by a wilful or negligent breach of duty of a statutory representative or "Erfüllungsgehilfe" of CGI, and unless other damage involves intentional or grossly negligent breaches of duty by CGI.

21.8 Should individual provisions of the agreements made between the parties be invalid or unenforceable, the remaining provision will remain valid. The parties undertake to replace the invalid provision by a valid provision that comes closest to the economic purpose of the invalid provision. The same applies to gaps in the provisions of the contract.