1. General provisions

1.1 These General Terms and Conditions for the creation of software and the use of services below (hereinafter "**GTC Software**") apply exclusively as contractually binding provisions for the creation, adaptation and installation of software and the use of services between the Contractor and Terra Mater Factual Studios GmbH (hereinafter "**TMFS**"). These GTC Software also apply to relevant future business relationships with the same Contractor without it being necessary for TMFS to refer to them in each individual case.

1.2 Deviating, conflicting or supplementary general terms and conditions of the Contractor shall only become an integral part of the contract to the extent that TMFS has expressly approved the validity thereof in writing. This requirement of approval applies in each case, e.g. even if, notwithstanding TMFS's knowledge of the conditions of the Contractor, TMFS unconditionally places orders for services with the Contractor.

1.3 Any individual agreements made on a case-by-case basis with the Contractor (including the order, collateral agreements, supplements and amendments) have priority over these GTC Software. It is imperative that such individual agreements are set forth in a written contract or order and/or are confirmed in writing by TMFS.

1.4 Amendments to these GTC Software shall be notified to contractors with whom TMFS has ongoing business relations by e-mail or in any other written form. Amendments enter into force one month after notification. Within this one month period the Contractor has the right to object to the amendments to these GTC Software in writing, otherwise such amendments shall be considered an integral part of the contract. In the event of an objection, TMFS has a right of instant termination.

2. Software and services

2.1 **Software** is particularly programs, automated data processing, the resources closely connected with them, e.g. configuration data which are required for operation, program modules, tools etc., as well as all kinds of digital data, programming, automated data processing and data supply which are developed, created or adapted for performance of the contract for TMFS's requirements by the Contractor including the related documentation. This also includes adaptations of standard or individual software at source code level as well as customising, updates (hotfix), upgrades, subsequent improvements (bug and hotfixes, patches etc.). Software also includes interfaces, icons, graphic user interfaces as well as other software components or parts to be defined individually in the respective order.

2.2 **Services** are particularly all kinds of (work) performance and activities carried out in connection with the planning, development, conception, creation, implementation, maintenance and adaptation of software and software-related projects as well as the acquisition, adaptation and installation of software in order to operate hardware or for operation on hardware (including the required linking to hardware). The Contractor is obliged to ensure the success of the (work) performance and activities under this contract.

3. Conclusion of contract

3.1 A contract based on these GTC Software materialises upon the Contractor's signature of an order referring to these GTC Software and its countersignature by TMFS. The GTC Software then also apply to future orders placed by TMFS with the Contractor without this requiring any separate reference to the GTC Software.

3.2 Further contractual provisions may arise from the documents, presentations and representations which TMFS has provided as order documents and appendices and which become a part of the contract. Any documents provided by the Contractor shall only become a part of the contract as an appendix with the prior written approval of TMFS. Such appendices become an integral part of the contract through reference thereto (e.g. order).

4. Subject of the contract

4.1 Unless otherwise agreed in the order, the subject of the contract is the conception, development, creation, installation and adaptation of the software described in the order and the issuance of specifications for the ordered software by the Contractor, the creation and delivery of the ordered software to TMFS plus the documentation by the Contractor, the assignment of the source code and the transfer of the agreed rights of use to the software to TMFS. In addition, the Contractor assumes the ongoing service of the software to the extent agreed in the order. Where creation is referred to below, the provisions also always apply to the adaptation and adjustment of software.

4.2 The Contractor shall draw up, in close consultation with TMFS, a comprehensive list of specifications describing in detail the characteristics and functionalities of the software which are reasonable and necessary according to the state of the art for the purposes and applications ordered by . The Contractor confirms that the specifications shall be examined for completeness, clarity, feasibility and, if applicable, compatibility with existing software and hardware and that, to the extent necessary, the Contractor has eliminated weaknesses and open issues in consultation with TMFS. The Contractor shall ensure that the requirements described in the specifications as a whole are described clearly and in a manner allowing an expert to implement the software with reasonable effort at any time.

4.3 The Contractor shall send the specifications to TMFS after completion for approval by TMFS confirming the acceptance of the contents in writing. TMFS shall check the specifications provided and, after approval, with a written confirmation of acceptance, enclose them with the contract as an **appendix**.

4.4 After the approval of the specifications the Contractor undertakes to implement the project according to the stipulations in the order and specifications and as far as necessary to develop them in technical and design aspects, and if applicable to design, adjust, possibly redevelop and program individual functional program modules, link third-party software and the created functional program modules as well as the third-party software in the existing system at TMFS, and if applicable to also design, develop and program the interfaces required for this purpose and to provide the related documentation and operating instructions (jointly also: "**project**" or "**overall project**").

4.5 If the Entrepreneur uses open source software codes when creating the software, the Contractor shall hand over to TMFS with the documentation a list showing which open source software codes were used by the Contractor in which form and in which part of the software, naming the open source software licences valid for the open source software and stating the licence period, and update this list as far as necessary particularly if the Contractor already provided it to TMFS upon conclusion of the contract.

4.6 The Contractor is responsible for the procurement of any programming agreed and notified in this contract and for the complete further transfer of the required software programs and licenses.

4.7 Unless otherwise agreed in the order, the Contractor is obliged to completely transfer and hand over the source code to the software to TMFS on the agreed date in a higher-level programming language which can be used by TMFS. The source code not only includes purely the program code but also a documentation describing and explaining it in technical English so that a programmer or system analyst with average training can understand, adapt, maintain, further develop and correct the source code without the aid of another person and with reasonable effort. The documentation can be partly contained in the source code (in the form of comment lines) but must also provide a separate, cohesive overview of the structure of the software. The Contractor guarantees that the source code provided is suitable for generating the latest version of the software used by TMFS.

5. Project management

5.1 The Contractor is responsible for the project, unless otherwise agreed in the order. If the Contractor is of the opinion that the required project management structure has not been duly implemented, he shall immediately notify TMFS thereof in writing. The Contractor can only refer to a fault in the implementation of the project management structure or any failures of TMFS in this connection if the Contractor has notified those responsible at TMFS of these faults or failures in writing and sufficiently specifically, stating the action to be taken by TMFS in his opinion and setting a reasonable period of time in which to do so.

5.2 The parties shall each appoint a project manager and his deputy (hereinafter "**project group**"). The project group is responsible for taking decisions on issues regarding project coordination, the accompanying monitoring of deadlines, the monitoring of the preparation of specifications and all other technical and implementation-related issues. After each meeting of the project group, the Contractor shall draw up minutes of the meeting which shall be sent to the participants within three (3) workdays. Unless an objection is made in writing within fifteen (15) workdays, the facts named therein and resolutions shall be deemed established and adopted with binding effect.

5.3 If necessary, the parties shall additionally name a contact for commercial issues and a deputy (hereinafter: "**steering group**"), otherwise the project management group shall also be deemed a steering group. The steering group is responsible for settling differences in opinion in connection with the implementation of the project and for the adjustment and modification of the project in commercial and legal respects.

5.4 The parties shall amicably settle all disagreements and differences in opinion in connection with the project through negotiations. If there should still be any disagreements, TMFS shall be entitled to make the final decision.

6. Time schedule, handover, installation and familiarisation

6.1 The deadlines agreed in the order or the deadlines notified by TMFS and possibly to be coordinated apply as the dates for handing over the software, source codes and documentation as well as the complete installation of the software.

6.2 Delays which are foreseeable or have occurred shall be notified, explained and a binding alternative date stated by the Contractor without delay in writing (by e-mail). In the event of delay, if it lasts for longer than one week and the Contractor is responsible for the delay, the Contractor shall pay a contractual penalty of 0.2% of the value of the partial service delayed for each further day of delay. TMFS expressly reserves further rights. The maximum total penalty for delay possible is 5% of the total project price per project. If the agreed deadlines are exceeded the Contractor shall not be deemed to be in delay if this can be attributed to subsequent change requests involving significant efforts or the lack of cooperation by TMFS for which TMFS is at fault. In the event of the lack of cooperation by TMFS for which TMFS is at fault this shall not result in delay by the Contractor if he has complied with the provisions set out under No. 7.2.

6.3 After a reasonable period set by TMFS has passed, TMFS is also entitled to withdraw from the contract in whole or in part and to then take over the software in whole or in part in the state in which the software is at that time. This is without prejudice to other rights to which TMFS is entitled on account of performance not rendered as per contract.

6.4 The Contractor shall put software to be installed by him based on the order into a state ready for operation at the place of installation stated by TMFS. TMFS shall be notified of the readiness for operation and proof thereof furnished by means of a suitable test by the Contractor which shall be confirmed in writing by TMFS.

6.5 Unless otherwise agreed in the order, the Contractor shall provide detailed instruction in the function and handling of the installed, set-up and linked-up software to TMFS´s employees. The instruction shall be conducted after TMFS's acceptance and written declaration of acceptance. The parties shall agree the respective dates no later than five (5) workdays after acceptance.

7. Duties to cooperate

7.1 TMFS's duties to cooperate shall be defined in the order. Duties to cooperate are not primary contractual obligations. The assumption of responsibility for the creation of the software and provision of services as per contract is not agreed.

7.2 The Contractor shall notify any delay in performance in writing in each case which is foreseeable or has occurred as a result of non-compliance with the agreed duties to

cooperate. The acts of cooperation required in the opinion of the Contractor shall be specifically described and discussed at the next meeting of the project group.

8. Change requests

8.1 All major changes to the scope of performance according to the specifications or other performance descriptions (hereinafter "**change requests**") are subject to the formalised processes defined herein. The aim of this change request process is to make decisions as quickly as possible and to ensure decision-making and the execution of change requests for a meaningful and application-oriented implementation based on TMFS's needs and requirements.

8.2 Each change request shall be submitted by the respective project manager or member in writing (e-mail suffices). The change request shall be described as precisely as possible and provided with sufficient background information to enable the change request to be evaluated. If a change request considerably exceeds the scope of efforts based on the order and the agreed remuneration, the parties shall specify a budget stating a maximum amount for these change requests in writing before implementation if appropriate. TMFS is entitled to have the final decision regarding any and all budgeting. The Contractor may only invoice amounts to TMFS which have been approved in writing by TMFS.

8.3 The project manager of the Contractor shall evaluate the change request within a period set by the project group regarding the effects in terms of time, costs and quality entailed in implementing the change request. The result shall be sent to TMFS by e-mail together with the change request. The analysis shall include an exact proposal on the technical implementation of the change request and, if applicable, on the financial framework. TMFS shall then decide on the change request and the implementation thereof and notify the project manager of this in writing.

8.4 The accepted change request shall be implemented according to the specified time schedule. The progress in implementation must be monitored and checked until the change request has been finally executed. Validation and acceptance shall be carried out as specified in these GTC Software.

9. Acceptance

9.1 Before handing over the software to TMFS, the Contractor shall test the acceptability thereof taking account of all the performance to be rendered based on the order and TMFS's instructions. If the software is ready for acceptance, the Contractor shall provide the software after the end of the development process and after rendering all performance for completion jointly with all project-related documents drawn up by him during the term of the project in the agreed form to TMFS. Following this, TMFS shall carry out a function test with an acceptance test without undue delay. The testing criteria must enable TMFS to conduct a detailed check of all the functionalities of the software specified in advance by the specifications or by any other description of performance (hereinafter "**acceptance test**").

9.2 After completion TMFS shall notify the Contractor in the event that the acceptance test is successful in terms of essential functions based on the tested performance parameters.

9.3 If the function test shows that the tested software still has defects, e.g. functional defects in the individual subjects of performance or in the interplay thereof that destroy or reduce the value or the suitability for use agreed or notified by TMFS, the Contractor is obliged to immediately rectify these defects at his own expense. After the rectification of defects, the acceptability test and the acceptance test shall be repeated. The obligation of the Contractor to rectify defects and repeat the acceptability test and acceptance test shall not affect any other rights under this contract.

9.4 After the successful completion of the acceptance test and after four weeks of faultless software operation TMFS shall submit a declaration of acceptance to the Contractor in writing provided that the work results meet the agreed requirements and TMFS does not notify any defects which would entitle TMFS to refuse acceptance.

9.5 Upon acceptance without reservation the performance rendered by the Contractor is considered suitable for use as per contract at the time of handover. The parties can record this declaration by drawing up an acceptance report which is signed by both parties.

9.6 All the deviations in the software from the contractually agreed characteristics which occurred during the acceptance test or during the following four (4) weeks shall be listed in acceptance reports. Any smaller defects that are discovered, which should not prevent acceptance, shall be recorded in the acceptance report. The Contractor shall countersign the acceptance report in the event of minor defects which do not prevent acceptance stating a binding deadline for subsequent improvement.

9.7 TMFS is entitled to refuse acceptance if and for as long as the documentation to be prepared and the materials and parts to be supplied by the Contractor based on the order are faulty, incomplete, incomprehensible or can be misunderstood.

9.8 If agreed in the order, down payments shall be made towards the remuneration subject to the payment schedule without this involving any acceptance or any other approval of the overall project or parts thereof.

10. Performance of service

10.1 If agreed in the order the Contractor shall assume the service in the period and scope agreed in the order after handover and acceptance of the software. The following provisions also apply to services which are provided for changes and supplements developed and created in the future.

The Contractor shall carry out the services in close consultation and if applicable based on instructions by TMFS and treat them within the response time and rectification time agreed herein. Any warranty claims have priority over these provisions as a basic principle and remain unaffected therefrom or rather the Contractor shall endeavour to implement the warranty claims to the same extent and within the same timeframe.

10.1.1 **Response time** is the time between reporting a defect or malfunction by TMFS and the commencement of the work by the Contractor to rectify the defect.

10.1.2 **Rectification time** is the period between commencement of the work by the Contractor to rectify a defect and the solution found for the fault or the rectification of the defect including the acceptability test carried out by the Contractor and acceptance of the faultlessly functioning software and services by TMFS.

10.1.3 **Normal working hours** is workdays from 8 am to 6 pm.

10.2 If the Contractor assumes the rectification of defects and malfunctions in the software based on the order, this work shall be performed within the following response times:

10.2.1 **Response times for defect class 1:** If a defect or a malfunction prevents the use of the software or an important software function for technical, legal or actual reasons and there is no functioning work around available which would enable a meaningful use of the software in commercial respects (**defect class 1**), the response time is thirty (30) minutes after the defect or the malfunction was reported during normal working hours. The Contractor shall continue his efforts until rectification even after normal working hours until the defect is fully rectified. In case of defects or malfunctions reported after normal working hours, the Contractor shall commence rectification at 8 am on the next day at the latest.

10.2.2 **Response times for defect class 2:** If a defect or malfunction in the software does not prevent but considerably hinders the operational use of the software or an important function of the software and the Contractor has not provided any functioning workaround (**defect class 2**), the response time is one (1) hour if defects or malfunctions are reported during normal working hours. The Contractor shall continue his efforts until rectification even after normal working hours until the defect is rectified. In case of defects or malfunctions reported after normal working hours, the Contractor shall commence rectification at 8 am on the next day at the latest.

10.2.3 **Response times for defect class 3:** For all other defects or malfunctions (**defect class 3**) the Contractor shall commence rectification at 8 am on the next workday at the latest and continue the work until the defect is rectified during normal working hours.

10.2.4 Defects are classified in various defect classes by TMFS at its reasonable discretion taking appropriate account of the effects that the defect concerned has on TMFS and particularly on the smooth operations and interests of TMFS.

10.3 The Contractor shall also endeavour to rectify all defects and malfunctions or enable short-term makeshift solutions for TMFS based on work arounds after normal working hours and within shorter periods of time than the response time or the rectification time. After the delivery of a work around the Contractor shall continue to rectify all defects and malfunctions and ensure that these are rectified within rectification times of three (3) workdays at the maximum.

11. Rights of use and ownership

11.1 The Contractor hereby irrevocably grants to TMFS all exclusive and freely transferable rights, particularly rights of use and ancillary copyrights to the software, and services to the extent that these are necessary for the contractually agreed use as notified by TMFS or arise upon the provision of the contractual services and the creation or adaptation of the software (including the source code, the underlying concept or procedure and the documentation in each case) without limitation in terms of time, territory and content. In addition, the Contractor hereby irrevocably transfers to TMFS all freely transferable rights to all changes and supplements developed and created in the future, including future releases and updates, without limitation in terms of time, territory and content. The rights granted to TMFS include in particular all copyrights, ancillary copyrights, trademark rights, patents, utility model rights and design rights and all other rights of ownership and property rights as well as all claims related to or arising from these rights at the time of their creation as exclusive, irrevocable and freely transferable rights for the extensive evaluation of the software for all purposes of use without limitation in terms of time, territory or content.

11.2 In particular, the Contractor also irrevocably transfers the following rights to TMFS completely, exclusively, freely transferably and without limitation in terms of time, territory and content:

11.2.1 the right to load, run and have displayed the software on any number of computers, including web servers, of TMFS or a service provider (host provider) named by TMFS, and to reproduce, to transfer and to save the software at that location;

11.2.2 the right to reproduce the software on any and all storage media, particularly using the storage media CD-ROM, DVD, disk, RAM, fixed disk, USB stick, and to place them on the market under any name, to distribute them for payment or without payment via all known distribution channels (particularly wholesale and retail, online shops, e-commerce platforms, app stores and direct marketing channels);

11.2.3 the right to change, adapt, decompile, further develop and translate the software and to use these changes, adaptations, further developments or translations;

11.2.4 the right to transfer the software to any electronic communication networks (for example internet, world wide web, online services, e-mail, mobile phone networks) and online databases, to save the software either temporarily or permanently and to hold it available for use by members of the public and closed user groups and to publicly display it;

11.2.5 the right to make the software accessible for payment or without payment, via all cabled and wireless, digital and analogous transmission and retrieval procedures and paths, particularly by wire, radio, fixed and mobile satellite networks and microwaves of all technical processes, to members of the public and closed user groups – also upon demand at locations and at times of their choice – simultaneously or successively for the purpose of use and to broadcast and transmit the software to

any terminal devices (e.g. PC; PDA, mobile phones, TVs) – also for the purpose of saving and interactive use;

11.2.6 the right to combine the software with other works and performance of TMFS and of third parties (e.g. "proprietary" and "free" software, databases, internet pages and contents) and to use these combinations;

11.2.7 the right to advertise the software and the use thereof in all media online and offline;

11.2.8 the right to license, let and sell the software to third parties;

11.2.9 the right to all types of use unknown at the time of signing the contract if the rights thereto have not already been granted based on the foregoing provisions.

11.3 The Contractor shall not apply for, have registered or assert his own rights to the software for any territory in any manner (particularly copyrights, trademark rights or patents). Notwithstanding the foregoing sentence the Contractor is, however, obliged upon TMFS's demand and expense to take all the measures required in order to protect and enforce the rights to the software granted to TMFS under this agreement (including the source code, the underlying concept and method and the documentation). The Contractor shall support TMFS to the extent required in applying for and registering rights (e.g. patents and copyrights) for the invention and the software (including the source code, the underlying concept and method and the documentation) in all territories, particularly complete all the applications, forms, declarations and other documents on request which are required in this connection.

11.4 If when creating the software the Contractor uses pre-existing software codes, particularly what are referred to as libraries and frames, which are distributed under third-party software or an open source software licence, e.g. PHP licence or the GNU general public licence, the provisions shall not apply to these software codes. The respectively applicable third-party software licences and open source software licences apply to these software codes. The parties stipulated in the order whether and what pre-existing third-party software or open source software codes the Contractor uses and which third-party software licences or open source software licences apply for each of these. The Contractor guarantees that only the agreed third-party software and open source software codes which were expressly approved by TMFS shall be used for the software and services. In addition, the Contractor guarantees if third-party software licences or open source software are used that the applicable third-party software licences or open source software licences do not oblige TMFS to disclose the source code for the whole software. The costs and efforts for third-party software and open source software codes and the licences thereto shall only be paid by TMFS if RBMH has approved the application and integration thereof in writing. Otherwise the Contractor shall pay all licences, licence fees and efforts in order to enable TMFS to use, exploit and transfer the software as per contract.

12. Remuneration

12.1 Agreed remuneration is always fixed remuneration. It compensates all performance including the rights granted to use and exploit the software created but also the expenses of licensing any third-party software and third-party services used.

12.2 The prices are reasonable fixed prices negotiated between the parties which cannot increase under any circumstances, unless otherwise agreed in the order.

12.3 Prior to the commencement of the services to be provided (before acceptance) the parties shall jointly agree a monthly budget for the service to be provided by the Contractor. In this connection the Contractor shall draw up a list of the service hours expected and have this approved in writing by TMFS. The Contractor shall provide the service for the remuneration agreed in the order. TMFS is only obliged to pay remuneration for the services which the Contractor has stated and have been approved in writing by TMFS (e-mail suffices). Any costs over and above this shall only be paid after prior written confirmation by RBMH (e-mail suffices). The Contractor shall only invoice hours for the service actually provided.

12.4 The remuneration excludes the respectively applicable statutory value-added tax which shall be added, unless otherwise agreed in the order.

13. Invoice and payment

13.1 Invoices shall be sent Terra Mater Factual Studios GmbH, Wambachergasse 2, 1130 Vienna, Austria depending on the agreement made in the order and subject to the rendering of performance in due form and the commercial and/or technical acceptance thereof after a written declaration of acceptance observing the respectively applicable requirements as to form. Invoices shall contain all necessary and useful details, such as the order number, IBAN, BIC code or VAT ID number in particular, otherwise the costs and efforts resulting from the failure to provide any such data shall be paid or compensated by the Contractor.

13.2 Payment is made by bank transfer to an account to be notified in writing within 30 days after receipt of an invoice issued in due form. This period refers to the instructions given for the bank transfer. Payment shall not constitute any acknowledgement of the regularity of the performance and thus any waiver of the claims due to TMFS based on contractually agreed or statutory provisions. Any instalments or advance payments are made only after prior written agreement. In the event of the premature termination of contracts, TMFS is entitled to demand a list of all the hours worked by the time of the termination of the contractual relationship by the Contractor and to demand the refund of any excess advance payments. No security shall be furnished for payment in due form.

13.3 If the Contractor is not subject to unlimited income tax liability in Austria and in the event that withholding tax arises based on Austrian income tax laws, TMFS shall deduct the withholding tax from the Contractor's net earnings and pay it over to the tax office responsible. Upon written request TMFS shall provide a confirmation to the Contractor on the withholding tax paid. If there is an effective double taxation treaty (DTT) between Austria and the country where the Contractor's firm has its headquarters which specifies a reduction in the aforementioned withholding tax, the Contractor must provide to TMFS all the necessary and required documents such as certificates of

residence from the tax office at the headquarters of the company before invoicing so that the reduced withholding tax rate can be applied according to the DTT.

14. Guarantee, warranty and liability

14.1 The Contractor guarantees that

14.1.1 the Contractor has all the rights and powers to conclude this contract and to provide, hand over and transfer in full all the duties, services and rights agreed herein without defects;

14.1.2 the rights to be transferred to TMFS under this contract belong completely to the Contractor and he may effectively transfer them to the agreed extent and that he has obtained the rights to the same extent from his employees, representatives, advisors and vicarious agents to the extent agreed herein and can effectively transfer them;

14.1.3 the software and software solution is free from third-party property rights which restrict or exclude use of the software solution as per contract;

14.1.4 the software and the use, exploitation and adaptation of the software agreed herein does not infringe or could not infringe the rights of third parties;

14.1.5 the software reflects the latest technological knowledge at the time when the contract is concluded;

14.1.6 the software is free of software defects, complies with the criteria set out in the specifications as well as any other performance descriptions agreed and reliably executes the functions named therein in the agreed system environment;

14.1.7 the implementation is carried out without defects according to the state of the art based on the requirements of the technical project plan;

14.1.8 solely employees of the Contractor are assigned with sufficient qualification and experience with the software and its adaptation and implementation in the project;

14.1.9 the software is free of "malware" (damaging computer programs of whatever kind).

14.2 The Contractor assumes a full warranty and guarantee for a period of two (2) years from the date of the acceptance of the software or the respective last enhancements for the execution of performance as per order and compliance with all relevant statutory and ÖNORM provisions.

14.3 The Contractor must furnish proof that a malfunction cannot be attributed to a defect within the first twelve (12) months of final acceptance.

14.4 The Contractor waives the plea of a time-barred complaint regarding defective goods in accordance with Section 377 of the Austrian Commercial Code [*UGB*].

14.5 In the event of liability, TMFS has the right, notwithstanding other statutory options and the agreed services, to have the defect rectified by subsequent delivery through improvement or exchange. The Contractor must immediately begin work on the rectification of defects and continue it without any delay. TMFS may set a reasonable additional period for the rectification of the defect. If the defects are not yet rectified after the expiry of the period, TMFS may demand at its option rescission of sale, a reasonable reduction of the remuneration or reimbursement of the expense which TMFS incurs as a result of the rectification of defects by its own employees or third parties. If the Contractor rejects the subsequent performance or it fails, TMFS has the right, notwithstanding other statutory options, at its choice to either withdraw from the contract or demand a reasonable reduction in price.

14.6 Negotiations between the contracting parties about the claims and about the circumstances underlying the claim as well as the rectification of the defect shall suspend the warranty and guarantee period. Once the defect has been rectified, the warranty and guarantee period, which is suspended for the period of rectification, shall continue to run.

14.7 The Contractor is fully liable to TMFS for all damage caused through the provision of a defective service by him, his employees, representatives or other vicarious agents. In particular, the Contractor shall indemnify TMFS in full, regardless of fault, upon first demand if one of the guarantees given herein by the Contractor is violated or breached. The Contractor is liable to TMFS and third parties for all consequential damage caused by these breaches of contract.

14.8 This liability applies regardless of any fault on the part of the Contractor, his vicarious agents or the recognition of the defect or ability to recognise the defect upon acceptance. The Contractor is obliged to indemnify TMFS against third-party claims as a result of these defects.

14.9 In the event of liability RBMH has the right, notwithstanding other statutory rights, to demand at its option, even if the defect is of a minor nature or can be rectified, a replacement free of charge, rescission of the sale, rectification of the defect free of charge or a reasonable price reduction or to have the defect rectified at the expense of the Contractor.

14.10 Once the rectification of the defect has been completed, the warranty and guarantee period shall start anew.

14.11 The Contractor shall provide a service number and an e-mail address to TMFS for reporting defects by the agreed completion date at the latest. The Contractor shall ensure that reports of defects are received by personnel sufficiently qualified for this task.

14.12 In the event of the reversal of the contract TMFS may demand that the software or the parts of the software already delivered are left for TMFS's use until an adequate replacement has been obtained.

14.13 The Contractor is obliged to search for a defect and – to the extent possible – to rectify it if it is contested whether there is a defect in the software or whether the problem is based on a different software or hardware environment. If in the end it is not a defect, the efforts by the Contractor shall be remunerated based on the hourly rates agreed in the order for service and if there is no such agreement, in line with market rates.

14.14 The parties shall immediately notify each other in writing if claims are asserted against them based on an infringement of property rights. If and to the extent that third-party software also belongs to software provided or developed or created within the framework of this project or third-party software is used during the development or creation of the software, the Contractor is obliged and assures that he has obtained or will obtain in full and effectively the simple rights, particularly without limitation in time, for the contractually stipulated use of the third-party software from the holders of the rights and procure these for TMFS as described in these GTC Software. The Contractor shall indemnify TMFS on first demand for a period of four (4) years after acceptance from all claims asserted by third parties in connection with property rights to the software, whereby the Contractor is reserved the right to take suitable measures to ward off claims and to conduct negotiations on a settlement (e.g. in connection with a subsequent licensing of the rejected program parts by a third party). The parties shall pay damages based on applicable statutory provisions.

15. Termination

15.1 The contract may be terminated by TMFS at any time with a notice period of two (2) weeks.

15.2 Only the performance of the Contractor shall be paid which was provided as per contract by the end of the notice period provided that the results and materials up to such time are completely handed over and transferred to TMFS and all rights thereto were assigned to TMFS as described in these GTC Software.

15.3 The right of instant termination for cause remains unaffected. A cause has occurred particularly if an application has been filed to open insolvency proceedings against the assets of one of the parties or there has been a breach of a guarantee.

15.4 Notice of termination must be in writing to become effective.

16. Confidentiality

16.1 The Contractor has received or gained access or will receive or gain access to business and company secrets as well as other confidential information and data of TMFS and the companies affiliated with TMFS in verbal, electronic or written form. The Contractor hereby undertakes to treat as strictly confidential all the confidential information and data which he receives or has received from TMFS, the companies affiliated with TMFS or their advisors and not to pass it on to third parties or to use this information for his own or third-party purposes. This also applies after the end of the contract.

16.2 The confidentiality obligation does not apply to information which is generally known, reflects the state of the art or was demonstrably already known by the Contractor prior to disclosure and is no longer secret.

16.3 The Contractor undertakes not to disclose to third parties the fact that the Contractor cooperates with TMFS without TMFS's prior express written approval. In particular, the Contractor is not entitled to use TMFS or trademarks, logos or names of TMFS or the companies affiliated with TMFS for references, advertisements or presentations.

16.4 The Contractor undertakes to return to TMFS all the documents which are and shall remain the exclusive property of TMFS and are not the subject of performance immediately after the end of cooperation and at any time upon TMFS's demand and at the same time to destroy or delete all copies and derivatives (e.g. on paper or in electronic form).

16.5 The aforementioned provisions shall not restrict the rights if (a) the use or disclosure of confidential information is provided to perform duties or to exercise rights which were contractually agreed or (b) use or disclosure is required under applicable law or an order by a court or authority or (c) TMFS gave its approval in advance in writing.

17. Data protection and data security

17.1 The Contractor undertakes to observe relevant data protection laws. In particular he shall collect, process or use personal data only in accordance with TMFS's instructions and applicable law. The Contractor shall oblige his employees to observe data secrecy, unless such an obligation already exists. The Contractor is obliged to make data backups on a regular basis to the extent necessary. In particular he shall protect the systems subject to his access against unauthorised inspection, saving, modification and any other unauthorised access or attacks, regardless of the kind. To do so, he shall take suitable state-of-the-art measures to the extent necessary, particularly to ensure protection against viruses and other damaging programs or program routines as well as other measures to protect his equipment, particularly to ensure protection against burglary. If systems are used which are not subject to his access he shall impose appropriate obligations on his contractual partners and regularly monitor compliance therewith.

17.2 TMFS is entitled to check compliance with data security requirements at any time after prior announcement in writing. To this end the Contractor shall grant TMFS access to his business facilities relevant for the inspection, particularly IT equipment, during customary hours of work.

18. Assignment, set-off and rights of retention

All the claims arising for the Contractor against TMFS may not be assigned to third parties. Rights of set-off and rights of retention are excluded, unless these are uncontested or have been declared legally valid by a court of law.

19. Other provisions

19.1 No collateral agreements have been made. All amendments, supplements or cancellations of the respective order and these GTC Software must be in writing to become effective and signed in the company's name by both contracting parties. This also applies to this written form clause.

19.2 To the extent that commercial clauses are agreed based on the International Commercial Terms (INCOTERMS) the INCOTERMS 2010 shall apply.

19.3 Should any provisions contained in these GTC Software be or become legally invalid, this shall not affect the remaining provisions of these GTC Software.

19.4 The place of performance is Salzburg, Austria.

19.5 Solely the laws of Austria apply excluding its conflict-of-law rules and the UN Sales Convention. If the registered office of the contractual partner is located in an EU member state, Iceland, Norway or Switzerland the exclusive place of jurisdiction is the court competent for commercial cases in Vienna, Austria. If the registered office of the contractual partner is located in a different country, all the disputes arising under or in connection with the contractual relationship with the contractual partner shall be finally decided based on the Rules of Arbitration of the International Chamber of Commerce by one or several arbitrators appointed according to these rules. The place of the arbitration proceedings shall be Vienna, Austria.

Status May 2018