

Terms and Conditions

NIC Solutions IT GmbH

1 Scope of Application

1.1 All deliveries and services, including consulting services, offers and other ancillary services of NIC Solutions GmbH will be provided exclusively subject to the application of these Terms and Conditions (hereinafter: Terms). These Terms will, in any event, form an integral part of every contractual relationship concluded with NIC Solutions GmbH. Customer declares that he is familiar and agrees with these Terms.

1.2 Customer's terms and conditions of purchase or any other business terms shall not apply. NIC Solutions GmbH hereby expressly objects to any reference to or counter-confirmation by the customer with reference to his terms and conditions.

1.3 Any derogation from and subsequent amendment of these Terms shall be effective only with NIC Solutions GmbH's written confirmation. Oral agreement shall not trigger any legal consequences. The written form requirement may be waived only in writing.

1.4 Any amendment, modification and termination of contracts or parts thereof shall be expressly so designated and shall not be legally effective, unless made by a written instrument. Any communication by fax or other electronic media (e.g. by e-mail) in other business relations between the customer and NIC Solutions GmbH shall also satisfy the written form requirement.

2 Offers, Contract Conclusion

2.1 Unless expressly agreed otherwise, NIC Solutions GmbH's offers shall be without engagement and non-binding.

2.2 NIC Solutions GmbH will accept the customer's offers or orders/placing of orders by issuing a written acknowledgment of order or by directly delivering the goods and/or providing the services. The customer shall be bound to his order/placing of order for a term of four weeks. The time limit shall start to run from NIC Solutions GmbH's receipt of the offer or order/placing of order.

2.3 The information contained in catalogues, brochures, price lists etc, including standards, drawings, measures and specifications as well as other properties or explanations (e.g. "fit for") shall be non-binding, unless they become part of the contract as expressly warranted properties.

3 Terms of Delivery/Services and Deadlines

3.1 Time limits and/or deadlines within which a delivery/service shall be provided shall be agreed in the relevant specifications or by virtue of a separate contract. Terms of delivery/services and deadlines shall be binding only if they were expressly agreed.

3.2 Impediments to performance NIC Solutions GmbH is not responsible for and which are due to temporary, non-foreseeable events shall entitle NIC Solutions GmbH to postpone the deliveries/services and/or agreed dates of completion for as long as such impediment occurs and for a reasonable start-up period. This applies also if these events occur during an existing default. These impediments to performance shall be, for example, unpredictable failure by suppliers to make deliveries/provide services, cases of force majeure and currency or trade measures and other sovereign acts, strike, lock-out, any interruption of operation NIC Solutions GmbH is not responsible for, obstruction of traffic routes, import/customs clearance delays as well as any other circumstances which, without having been caused by NIC Solutions GmbH, considerably impede or

make the provision of deliveries or services impossible. In this context, it is irrelevant whether these circumstances occur at NIC Solutions GmbH itself or at any of its suppliers/subcontractors.

3.3 If NIC Solutions GmbH is unable to make a delivery/provide a service for reasons the customer is responsible for, NIC Solutions GmbH may rescind the contract and the deliveries/services additionally ordered in this context, provided the customer does not comply with a reasonable grace period granted by NIC Solutions GmbH. In this event, the customer shall reimburse NIC Solutions GmbH for any costs incurred for deliveries/services already provided as well as for lost profit, such amount not exceeding the compensation agreed for the provision of all deliveries/services ordered/placed. The delivery date shall be the date on which the letter of rescission is served on the customer.

3.4 The customer may seek the cancellation of the contract on the grounds of any delay of delivery/service caused by NIC Solutions GmbH only in relation to those parts of deliveries and services not yet provided. To the extent any partial delivery/service already provided cannot be used by the customer, he may also cancel the contract with respect to such part. Damages, if any, may be asserted subject to § 15.

4 Delivery Obligations, Scope of Services

4.1 The scope of contractual deliveries/services shall be set out by the relevant contract and/or the relevant specification of services. The following general provisions shall apply to

4.2 Data processing services:

4.2.1 NIC Solutions GmbH will support the customer in connection with consulting and concept drafting, project preparation and project management and will provide software support in connection with the execution of work defined by the customer (e.g. program and application development, system check, system analysis and system development, organization concepts and the like). Services to be specifically provided by NIC Solutions GmbH shall be agreed in writing.

4.2.2 Unless expressly agreed otherwise, NIC Solutions GmbH will only perform a contract for works and services (*Werkvertrag*), if the customer has expressly placed such an order in writing. Individual organization concepts and programs will be developed in accordance with and to the extent set out in the binding information, documents and auxiliary materials the customer has timely and completely made available. These materials include also practical test data and sufficient test options which will be made available by the customer in due time during normal working hours and at his own cost and expense.

4.2.3 If the customer already works on a system, which was made available for test purposes, in real time operation, he will be exclusively responsible for saving real data.

4.2.4 In connection with the implementation of a data processing project, the customer shall nominate a contact person (project manager) with adequate authority to decide the details and handling of the project and to coordinate the data processing project at customer's premises. This contact person may issue legally binding declarations, orders or instructions for the customer towards NIC Solutions GmbH.

4.2.5 Individual programs will be developed on the basis of written specifications of services which the customer will either make available to NIC Solutions GmbH or which NIC

Terms and Conditions

NIC Solutions IT GmbH

Solutions GmbH will prepare against compensation on the basis of the documents and information made available by the customer. The customer shall examine the correctness and completeness of these specifications and approve the same.

4.2.6 Minor changes of a default (e.g. target setting, pilot study, specifications, single software functions) may be agreed between the customer and NIC Solutions GmbH in derogation of Clause 1.3. Major changes the implementation of which either exceeds a scope of two man days or restricts the functionality of the software shall, however, be agreed in writing prior to implementation thereof.

4.3 Services:

4.3.1 NIC Solutions GmbH will provide its services within the scope which is defined exhaustively and in more detail in the service agreement made with the customer. The service agreement does not cover, in any event, a guarantee that the customer's data processing equipment will continue to be operational without interruption.

4.3.2 NIC Solutions GmbH's services not covered by the scope of services as laid down in the service agreement will be charged separately according to NIC Solutions GmbH's generally applicable tariffs and prices. Unless expressly provided otherwise, this shall particularly apply to

- services provided outside the contractually agreed service times,
- services for equipment and/or accessories not covered by the service agreement as well as modifications, add-ons and other installations at customer's data processing equipment,
- trouble-shooting caused by operational errors, improper handling, technical interference by the customer or third parties or external influence NIC Solutions GmbH is not responsible for, particularly force majeure (e.g. lightning, fire, flood, etc) or vandalism, burglary, theft as well as service assignments caused by customer's false reports,
- data back-up and data restoration,
- removal of computer viruses and necessary additional services,
- costs of wear parts (e.g. print heads) and expendables (such as paper, ink ribbons, toners, detergents and data carries) and
- electrical work outside the data processing equipment or single devices of the customer.

4.3.3 All services to be provided by NIC Solutions GmbH under the service agreement with the customer require that customer's data processing equipment is technically faultless and operational upon conclusion of the contract. For this purpose, NIC Solutions GmbH may thoroughly inspect the data processing equipment prior to the conclusion of the service agreement. NIC Solutions GmbH will promptly give notice to the customer should it turn out that hardware and/or the data processing equipment's software components must be repaired or put into a technically faultless condition. NIC Solutions GmbH will separately charge any repair services the customer may order. NIC Solutions GmbH may rescind the contract if it turns out after conclusion of the service agreement that customer's data processing equipment is not technically faultless and operational. The customer shall reimburse NIC Solutions GmbH for all expenses incurred until the rescission date.

4.3.4 Customer may request the services laid down in the service agreement on work days during NIC Solutions GmbH's business hours, that is Mondays to Fridays from 9 a.m. to 5 p.m.. These requests shall be made by phone, fax or e-mail. NIC Solutions GmbH shall provide services outside these times only if the service agreement expressly provides for this special service.

4.4 NIC Solutions GmbH may fulfill orders by making partial deliveries/shipments or providing partial services.

5 Customer's Obligations

5.1 Customer will use his best efforts to ensure that NIC Solutions GmbH is able to properly fulfill its contractually agreed deliveries/services. The customer will particularly procure all necessary installation requirements and – unless the contract provides otherwise – will timely and at his own cost and expense obtain all necessary government permits, approvals, licenses/authorizations or private law consents and third party licenses, so that these are available in time for the fulfillment of NIC Solutions GmbH's delivery/service obligations. The customer will also make available to NIC Solutions GmbH and procure all necessary resources to be provided by him so that NIC Solutions GmbH can discuss with him all questions relating to the performance of the contract or the coordination of the project. The customer shall be liable for the completeness and correctness of information provided by him.

5.2 To support NIC Solutions GmbH's services, the customer will particularly

- strictly comply with the installation requirements applicable to the hardware components of his data processing equipment,
- use only accessories which comply with the data processing equipment's manufacturer specifications,
- provide ongoing training to his employees to exclude service assignments solely based on the use of wrong accessories or operational errors,
- take precautions which allow errors to be tracked rapidly, e.g. independent carry out error analysis using diagnostic routines, and record hardware and software components and error descriptions on the basis of check lists,
- take appropriate security precautions to restore his data, and he will particularly make regular data back-ups,
- grant NIC Solutions GmbH unrestricted and safe access to all premises where hardware and software components of the data processing equipment are located in order to allow it to provide the services,
- make available for the duration of NIC Solutions GmbH's services an employee who is optimally familiar with the data processing system and who may provide NIC Solutions GmbH with information which allows rapid fault diagnosis and, in case of remote service, who can make available a working phone or data network connection and can track and cancel, if necessary, NIC Solutions GmbH's service actions on a screen,
- make available to NIC Solutions GmbH documentation as well as up-to-date installation disks for the software used, and
- will assign an appropriate room to NIC Solutions GmbH for the storage of spare parts, manuals and the like.

5.3 The customer shall be obliged to have all work relating to equipment and components of his data processing

Terms and Conditions

NIC Solutions IT GmbH

system, which are covered by a service agreement, carried out exclusively by NIC Solutions GmbH. The customer acknowledges that all warranty obligations and guarantees which may have been issued by NIC Solutions GmbH shall expire if he fails to comply with this obligation. The same applies if the customer fails to make the payments under the service agreement.

5.4 The customer shall ensure at his own responsibility that confidential data/information relating to his data processing system, particularly access codes, codes, passwords, and other subscriber data will be kept confidential. Any such information stored on hard disks will be reasonably encrypted.

5.5 The customer will use and maintain any devices and equipment delivered/made available by NIC Solutions GmbH as well as any services provided to him with the care and diligence of a prudent business man. He will particularly comply with all relevant laws and legal regulations (e.g. Telecommunications Act, TKG, Federal Law Gazette 70/2003; Data Protection Act, DSG 2000, Federal Law Gazette I 165/1999, as amended) as well as with existing license restrictions. The customer will not, in any event, misuse NIC Solutions GmbH's services. The customer shall, in any event, be responsible for any content he transmits via NIC Solutions GmbH equipment. The same applies to claims resulting from the fact that a third party obtains access to NIC Solutions GmbH' equipment via the customer.

6 Risk of Loss and Shipment

6.1 The risk shall pass to customer as soon as a delivery left NIC Solutions GmbH's warehouse upon collection or as soon as a work performance is deemed accepted (Clause 10), or upon shipment upon delivery to the shipper or carrier. This applies also where NIC Solutions GmbH will pay for shipping and handling under a separate agreement. Program carriers, documentation and specifications of services will always be shipped at customer's risk. In case of NIC Solutions GmbH's services which do not include on-site support on the location of customer's data processing system, the customer shall bear the risk of loss of or damage to the components of his data processing system while in transit to or from a branch office of NIC Solutions GmbH.

6.2 Where a delivery is ready to be shipped at NIC Solutions GmbH and if there is any delay in shipment for reasons the customer is responsible for, the risk shall pass to customer upon receipt of the notice indicating readiness for shipment.

6.3 The customer approves any appropriate form of shipment. Transport insurance will be taken out only upon customer's written instruction.

6.4 If the customer rents devices and/or equipment made available by NIC Solutions GmbH, he shall be liable for any damage and loss from delivery, notwithstanding the cause thereof, as well as for force majeure, unless such damage was caused by NIC Solutions GmbH or any of its agents. A complete loss of rented equipment will not affect the obligation to pay the agreed compensation, provided NIC Solutions GmbH restores such equipment within a reasonable time. The cost of restoration shall be borne by the customer. The customer shall promptly give notice to NIC Solutions GmbH of any impairment to or risk for its devices and/or equipment and particularly of any third party interference or government order (e.g. pledge or other encumbrance). Any cost incurred for asserting NIC Solutions GmbH's unencumbered title in or out of court shall be charged to the customer.

7 Prices, Compensation, Expenses, Taxes and Duties

7.1 All prices and compensations are without statutory VAT and/or other applicable taxes.

7.2 Commodity prices are ex works. Shipping and handling (e.g. packaging, transport, insurance, customs) shall be borne by the customer. This shall also apply to partial deliveries.

7.3 NIC Solutions GmbH may in consideration of all possible circumstances at its sole discretion change any periodically charged compensations as well as any compensations charged on the basis of efforts spent. Any change will be effective with written notice to the customer.

7.4 Unless expressly agreed otherwise, a service fee will be charged annually, at the beginning of a calendar year, which shall be payable in advance. If the contract commences during a calendar year, the service fee will be charged on a pro rata basis until the end of the first calendar year.

7.5 The service fee covers only the contractual services hereunder, but not additional services (see Clause 4.3.2).

7.6 A service fee defined as fixed price is value guaranteed based on the 1996 consumer price index published by the Austrian Central Statistical Office for the month (reference month) in which the service agreement was concluded. The fixed price will increase by the same percentage by which the consumer price index will increase on the due date of the service fee in relation to the index published for the reference month. In case the 1996 consumer price index is no longer published, it shall be replaced by its successor or the closest corresponding index as the basis for future indexation.

7.7 Travel expenses, daily allowances, and overnight allowances will be charged to the customer separately. Travel times shall be deemed working hours.

7.8 The customer will bear and shall hold harmless and indemnify NIC Solutions GmbH for all taxes and duties (e.g. stamp duties) arising in connection with the provision of the agreed services.

8 Terms of Payment

8.1 NIC Solutions GmbH's invoices shall be due upon receipt and payable free and clear of any expenses and deduction, net cash, within fourteen (14) days.

8.2 If a cash discount was agreed with the customer, such discount does not apply to charged credit amounts.

8.3 Transfers shall be deemed received on the day they are credited to NIC Solutions GmbH's account and will be set off against the earliest outstanding claim, considering first costs and other incidental expenses, then interest and then capital. Dedicated payments are not effective.

8.4 Agreed payment terms are always valid only for a transaction commissioned by the customer.

8.5 In case of the customer's delay of payment, NIC Solutions GmbH may charge default interest at a rate of 8 % above the 12-month-EURIBOR. The customer undertakes to reimburse in this event collection fees of Kreditschutz-verband von 1870 or another collection agency as well as all further costs of bringing an action (including legal fees). If customer is more than four weeks in delay of payment of an invoice, NIC Solutions GmbH may

Terms and Conditions

NIC Solutions IT GmbH

subsequently charge all benefits granted upon conclusion of the contract. In addition, all other open invoices will be immediately due and payable, notwithstanding their maturity date and without granting of a grace period, and/or any agreement on a payment by installments will accelerate.

8.6 Customer may not assert a right of retention against NIC Solutions GmbH's claims. Any set-off against counterclaims is permitted only if the relevant counter claim is beyond dispute and has been established by virtue of a final court order.

8.7 Bills of exchange and checks will be accepted only on account of payment and may not indicate a purpose of payment. The acceptance of a bill of exchange/check will not defer the claim underlying the basic transaction. Discounts or other expenses shall be borne by the customer. Credits via bills of exchange/checks are made subject to receipt of the amount, less expenses, with value on the date on which NIC Solutions GmbH may dispose of the counter-value. NIC Solutions GmbH shall not be liable for timely presentation, protest, notification and return of a bill of exchange/check in case of non-acceptance thereof.

8.8 Should the customer's financial condition deteriorate so that payment of the agreed compensation to NIC Solutions GmbH seems at risk, or if an application for initiation of insolvency proceedings is initiated against the customer, NIC Solutions GmbH may immediately declare due all outstanding claims and process customer's order only against advance payment and, in case of delay of payment, may rescind the contract subject to a five-day grace period.

8.9 Should the customer be in default with performing a contractual obligation which constitutes a requirement for performance on the part of NIC Solutions GmbH, and should customer fail to cure such default within a reasonable grace period, NIC Solutions GmbH, notwithstanding its claims to compensation of damage, if any, and additional cost, will be put into a position with respect to this (preliminary) non-performance as if NIC Solutions GmbH had already properly performed, and NIC Solutions GmbH may immediately invoice and declare such performance due and payable. As soon as the impediment has been removed, NIC Solutions GmbH will make up for its contractual services, whereby additional expenses shall be compensated separately.

8.10 If the customer fails to properly comply with his payment obligations within a reasonable grace period, NIC Solutions GmbH may discontinue the contractual performance, take back delivered items and, if necessary, enter customer's premises for this purpose in order to remove the items. Any discontinuation of performance and/or taking back of products shall not be deemed a cancellation of the contract without NIC Solutions GmbH's express written notice. NIC Solutions GmbH will resume its performance as soon as the reasons for the discontinuation and/or taking back of items have ceased to exist. The discontinuation of services does not release the customer from his obligation to pay the contractually agreed compensations.

9 Retention of Title, Reservation of Right of Use

9.1 The goods delivered by NIC Solutions GmbH will remain its property until full payment of the purchase price along with interest and ancillary expenses is effected. The rights to use the delivered software will be granted only subject to full payment as well. Until full payment was made, the customer may resell, handle, process or combine the goods or the software only with NIC Solutions GmbH's written consent, except where the goods are intended for these purposes with NIC Solutions GmbH's knowledge

within the scope of the customer's ordinary course of business. As regards software, the customer's right to reuse the software shall expire when NIC Solutions GmbH asserts its retention of title or reserves the right to grant a license. All program copies made by the customer shall be deleted without further delay. NIC Solutions GmbH may take back goods subject to a retention of title or reserved licenses if the customer is in default. However, this will not trigger a rescission from the contract. However, under the conditions set forth in Clause 8.10, NIC Solutions GmbH may, at its election, rescind the contract or sell the goods subject to a retention of title or the reserved licenses to cover the customer's payment obligations.

9.2 The customer assigns already now to NIC Solutions GmbH all claims and rights he may have by virtue of any resale, processing, combination or other realization of the goods, even if it be unlawful, and all claims for damage to or use of the goods. However, the customer may collect these claims also after assignment, but he shall note the assignment in his records, notify his debtor thereof and provide to NIC Solutions GmbH upon its request all information about the sale of the goods it delivered and indicate his debtors to NIC Solutions GmbH. The customer shall immediately pay to NIC Solutions GmbH any amounts collected, and he shall preserve them carefully separated and free of charge on NIC Solutions GmbH's behalf until then. NIC Solutions GmbH may revoke the sale/direct debit authorization if the customer fails to properly satisfy his payment obligations, and demand surrender of the goods.

9.3 Until full payment of all claims, the goods and/or any rights of use that may have been granted may not be pledged or otherwise encumbered with rights of third parties either. The customer shall immediately inform NIC Solutions GmbH of any pledge, other encumbrance or deterioration of the goods or the assigned claims, and the customer shall sufficiently insure all goods against customary risks (in particular theft, damage caused by broken glass, fire and water) at his own cost and expense and prove the relevant insurance to NIC Solutions GmbH upon request. The customer shall be liable for any accidental loss of the goods also upon termination of the contract.

9.4 If NIC Solutions GmbH exchanges spare parts in the course of rectifying defects/carrying out repair work, the parts exchanged at the customer's electronic data processing system shall transfer to NIC Solutions GmbH 's property. The customer shall be liable to NIC Solutions GmbH that rights of third parties do not prevent this exchange along with a transfer of title.

10 Acceptance

10.1 As soon as NIC Solutions GmbH states that the contractually agreed entire or partial delivery/service is completed and has made the same ready for acceptance, the customer will immediately accept the delivery/service to verify whether it is consistent with the agreed specification of services. If no defects are identified upon acceptance which eliminate or substantially reduce the value or fitness of the delivery or service for the ordinary or contractually assured use, the customer shall confirm his acceptance in an acceptance certificate. Insignificant defects, if any, shall be stated in a separate list of defects and rectified by NIC Solutions GmbH on short notice. Should a delivery or service not be accepted by the customer within fourteen (14) days from receipt of the notice of completion for reasons the customer is responsible for, the faultlessness of NIC Solutions GmbH's delivery/service to be accepted shall be deemed irrevocably confirmed.

10.2 If material defects are identified upon acceptance, NIC Solutions GmbH shall remove these free of charge within a

Terms and Conditions

NIC Solutions IT GmbH

reasonable period. The customer shall then accept the relevant service, unless he had to accept the service before in view of the nature of defects. Defects which are due to information, data, etc. provided by the customer or incorrect or insufficient information or materials provided by the customer, shall not entitle the customer to refuse acceptance.

11 Warranty

11.1 The warranty period is six months. This applies also to items which are firmly connected with a building or a property.

11.2 NIC Solutions GmbH shall be given immediate written notice of all defects, stating the possible causes. After the customer has accepted the delivery/service (see Clause 10), notice of defects which were identifiable upon acceptance shall be excluded.

11.3 If a notice of defects is legitimate and timely given, NIC Solutions GmbH will at its election rectify defects or take back the incriminated item and deliver a defect-free product DDP within a reasonable period during its business hours (Monday - Friday 9 a.m. to 5 p.m.). The customer shall enable NIC Solutions GmbH to take all measures which are necessary to examine and/or rectify the defects. For warranty work at the customer's business premises, the customer shall free of charge provide any employees who may be necessary. The customer shall immediately reimburse all costs NIC Solutions GmbH incurred in connection with an unjustified notice of defects.

11.4 NIC Solutions GmbH may release itself from the customer's warranty claims by assigning to the customer its warranty or damage claims against upstream suppliers or producers. NIC Solutions GmbH shall not be liable for the correctness or recoverability of such claims.

11.5 Defects which are due to instructions or assemblies not ordered by NIC Solutions GmbH, insufficient equipment or use of inappropriate organization materials and data carriers, non-compliance with the installation requirements, improper use, force majeure, software release changes, if any, or new hardware installations, conditions affecting the mode of operation (e.g. insufficient power supply or air-conditioning) or damage caused by transport shall be excluded.

12 Delayed Acceptance, Acceptance of Returned Goods

12.1 In case the customer accepts deliveries of goods with delay, NIC Solutions GmbH may store the goods for the customer at his own cost and expense, and it may sell the goods on the free market not below half of the estimated value against setoff of the purchase price and the costs for storage and selling no earlier than 14 days after the customer has been notified of the storage.

12.2 Except in case of a rescission under warranty law, goods may be sent back only with NIC Solutions GmbH's prior consent. The invoice number and invoice date shall be indicated. Agreed return shipments will be made at the customer's cost and expense and risk.

12.3 NIC Solutions GmbH will not accept non-agreed return shipments and return them at the sender's cost and expense and risk. However, NIC Solutions GmbH may store returned goods at the customer's cost and expense and risk.

12.4 Each storage of goods by NIC Solutions GmbH for the customer shall, on a subsidiary basis, be governed by the

General Austrian Forwarding Terms and Conditions (AÖSp) and the tariffs of Austrian forwarding agents valid from time to time.

13 Intellectual Property Rights, Protection

13.1 Unless expressly provided otherwise, the customer may use the software delivered by NIC Solutions GmbH in accordance with its intended purpose on the systems which may be specified in detail by contract in the state in which the customer has his registered offices (or in the state in which individuals have their residence). The customer is thus granted a non-exclusive and non-transferable ordinary right to use the software (ordinary permit to use the work).

13.2 Notwithstanding Sections 40d and 40e Copyright Act (*UrhG*), the customer shall not reproduce parts of the software in printed or any other non-machine-readable form (e.g. micro fiche) or carry out any disassembly, decompilation or other measures to obtain the source code.

13.4 The customer will take reasonable precautions and instruct all persons who have access to NIC Solutions GmbH's deliveries or services to ensure that these are kept confidential. Should, during the execution of the order, arise any results, exploitable ideas or the like from NIC Solutions GmbH's cooperation with the customer, which are the subject-matter of a patent or a utility model, a copyrightable work, design or other work capable of being protected by intellectual property rights, NIC Solutions GmbH may irrevocably use and exploit these results or ideas or the related know-how without any restriction in terms of time, territory and substance and independent of any consent.

13.5 NIC Solutions GmbH will reserve all rights to all copies, excerpts, improvements and any other processing of software or of parts thereof. No copies may be distributed to third parties without NIC Solutions GmbH's consent. Third parties shall also mean other customers of NIC Solutions GmbH, but not the customer's or NIC Solutions GmbH's employees as well as persons who use the services in accordance with the contract. The customer will keep records on the number and storage of copies (also of copies pursuant to Sections 40d and 40e *UrhG*). NIC Solutions GmbH may have copies of these records made at its own cost and expense. Before passing on any data carriers, the customer will ensure that no parts of the software exist on the data carrier.

13.6 For each case of passing on the software or individual components thereof without authorization, the customer shall pay to NIC Solutions GmbH a no-fault penalty equal to a triple one-time fee or ten times the annual license for the relevant component, which penalty cannot be reduced by court order.

14 Training

14.1 Upon request and against separate compensation, NIC Solutions GmbH will train the customer's staff in operating data processing systems and/or software programs. The customer shall be solely responsible for selecting appropriate employees for data processing training.

14.2 In connection with training services, NIC Solutions GmbH will not warrant for a certain result or assume any liability if data processing problems are caused by insufficient training of the operating staff.

15 Damages

15.1 NIC Solutions GmbH shall be liable for damage caused by itself or by any of its subcontractors and servants

Terms and Conditions

NIC Solutions IT GmbH

only in case of intent or gross negligence. Any liability for indirect and consequential damage, lost profits, loss of savings, loss of interest, pecuniary damage, uninterrupted access to offered services, establishment of desired connections at any time, loss arising from claims of third parties as well as loss of and damage to (recorded) data, other data material and destruction of software shall be excluded. NIC Solutions GmbH shall not be liable for any claims which may arise from breakdowns, if any (e.g. mutilations, omissions or delays) and disclaims any liability for the completeness and correctness of transmitted data.

15.2 The amount of the customer's entire damage claims in case delivered goods are defective shall not exceed the amounts which will be reimbursed to NIC Solutions GmbH by third parties. NIC Solutions GmbH's obligation to pay a compensation to the customer shall, in any event, not exceed EUR 20,000.00 for any event causing damage, and EUR 100,000.00 towards all injured parties, if any, and in aggregate per calendar year. If the total damage exceeds the maximum amount, the individual injured parties' or the customer's compensation claims will be reduced on a pro-rata basis. NIC Solutions GmbH shall not have to prove the non-existence of the requirements for its liability for gross negligence. If a person is injured or killed, NIC Solutions GmbH shall be unrestrictedly liable also in case of slight negligence.

15.3 NIC Solutions GmbH shall, if necessary, be liable for no-fault compensation claims according to the provisions of the Product Liability Act (PHG, Federal Law Gazette 1988/99, as amended). Any claims against NIC Solutions GmbH under no-fault liability outside the scope of application of the Product Liability Act shall be excluded.

15.4 NIC Solutions GmbH disclaims any liability for any damage arising from an official permit, approval, license/authorization or from the consent of third parties which may be necessary but was not granted.

15.5 Any damages and recourse claims, if any, against NIC Solutions GmbH shall forfeit, unless they are asserted in court within six months.

15.6 Several customers shall be jointly and severally liable towards NIC Solutions GmbH.

16 Termination of Contracts

16.1 The term of a contract depends on the contract concluded with the customer. Fixed-term contracts may not be terminated before expiry of the agreed term. If NIC Solutions GmbH continues to offer and if the customer continues to accept the agreed service after expiry of the term, the contract will be renewed for one further year at a time.

16.2 Unless otherwise agreed, contracts concluded for an indefinite period of time may be terminated with three months' notice on the last day of a calendar year, with the date of the postmark being relevant. NIC Solutions GmbH may give notice of termination to the customer also with respect to individual deliveries or services. In case a continuing obligation was entered into with NIC Solutions GmbH, the customer waives to give ordinary notice of termination until expiry of the second calendar year following the conclusion of this contract.

16.3 Notwithstanding their right to give ordinary notice of termination, the parties may terminate the contract without notice in case of good cause which makes it unreasonable for a party to continue the contractual relationship. Good cause shall be in particular

- a party's default with a contractually owed performance despite a written reminder and granting of a reasonable grace period,
- the impossibility or inefficiency of a service, e.g. if services of NIC Solutions GmbH cannot be provided for lack of spare parts or in case of a supplier's delay of delivery, discontinuation of operation, technical obsolescence of a defective electronic data processing system or of a device, etc., or
- if a party becomes incapable of acting or if its capacity to act is substantially limited, in particular due to the initiation of bankruptcy or compositions proceedings, the dismissal of an application for the initiation of bankruptcy or composition proceedings for lack of assets.

If NIC Solutions GmbH terminates a contract without notice within the scope of a fixed-term continuing obligation, the contractually agreed compensation shall be paid for the period until expiry of the regular term or up until the next possible termination date. If a contract is immediately terminated for good cause, all of NIC Solutions GmbH's outstanding claims towards the customer shall be due and payable within ten days.

17 Loyalty, Competition Clause

17.1 The parties undertake to be loyal to each other. They will not, either themselves or through third parties, solicit and employ employees of the other party during the term of the contract and up to twelve (12) months after termination of this contract.

17.2 If a party violates these obligations, it shall pay to the other party a penalty equal to the gross annual salary most recently paid to the solicited employee, which penalty cannot be reduced by court order.

17.3 The customer will not use the know-how obtained within the scope of his contractual relationship with NIC Solutions GmbH to directly compete with the latter and, in case he violates this provision, the consumer undertakes to pay to NIC Solutions GmbH a penalty equal to five times the total contract value and, in case of services, equal to five times the last annual service fee, which penalty cannot be reduced by court order.

18 Reference

18.1 The customer agrees to be named as a reference by NIC Solutions GmbH in the latter's advertising and other materials which are intended for the public.

19 Miscellaneous

19.1 Unless expressly agreed otherwise, place of performance for NIC Solutions GmbH's deliveries and services as well as for all payments to NIC Solutions GmbH shall be Vienna.

19.2 All of the customer's contractually agreed rights and obligations shall transfer to his legal successors, if any. The customer undertakes to expressly assign these rights and obligations and to assign this provision to legal successors. NIC Solutions GmbH may transfer all rights and obligations from this contractual relationship to other group companies. NIC Solutions GmbH will give written notice to the customer of any transfer of the contract. The customer shall have no right of termination in this event, provided the acquiring company accedes to all rights and obligations of the contract. NIC Solutions GmbH may entrust subcontractors with the performance of its contractual obligations.

Terms and Conditions NIC Solutions IT GmbH

19.3 The customer shall immediately, but no later than within one month after a change, give written notice to NIC Solutions GmbH of any change of his name or company name, his address (relocation of registered offices), his legal form, his companies register number, his paying agent, his bank and credit card company, direct debiting orders, if any, as well as his VAT number.

19.4 The date of the postmark shall be relevant for compliance with time-limits. If the customer fails to give notice or to give timely notice of changes as set forth in Clause 19.4 and if he therefore does not receive legally relevant documents NIC Solutions GmbH sent to the address most recently indicated by him, in particular notices of termination or reminders, the documents shall nevertheless be deemed received. Invoices and reminders of NIC Solutions GmbH shall be deemed received under the same conditions if they were sent to the paying agent most recently indicated by the customer.

19.5 The customer shall not assign any claims and rights from the contractual relationship without NIC Solutions GmbH's consent.

19.6 Any taxes and duties which may arise in connection with the execution of the contract shall be borne by the customer, who shall hold harmless and indemnify NIC Solutions GmbH in this respect.

19.7 The customer acknowledges that the re-export of data processing components may be subject to statutory or governmental restrictions. The customer shall ensure compliance therewith on his own responsibility and hold harmless and indemnify NIC Solutions GmbH in this respect.

19.8 The contractual relationship of the parties shall be exclusively governed by and construed in accordance with Austrian law. The United Nations Convention on Contracts for the International Sale of Goods (UN Sales Convention, Federal Law Gazette 1988/96) and all provisions of Austrian law referring thereto shall be expressly excluded.

19.9 Should any term hereof be or become invalid, this shall not affect the validity of the remaining terms; invalid terms shall be replaced by valid terms which closest reflect the intended purpose.

19.10 Place of jurisdiction for all disputes arising from the contractual relationship or from future contracts with the customer shall be the court having subject-matter jurisdiction for Vienna – Inner City. However, NIC Solutions GmbH may also sue the customer at his general place of jurisdiction.