

## General Terms and Conditions of the Beta Group for Software Rental and Servicing/Maintenance

### 1. Subject Matter of Agreement

The subject matter of these General Terms and Conditions which were handed to the Customer before signing the Main Agreement and whose validity was confirmed by the Customer by signing the Main Agreement is the temporally limited rental of the computer programs specified in detail in the Main Agreement including the associated documentation in English language (collectively also denoted as the Products) to the Customer for use according to the stipulations of the Main Agreement and the servicing and maintenance of the programs as listed in the Main Agreement together with the appropriate documentation and support service according to the stipulations of this agreement.

### 2. Delivery of Products

- 2.1 Beta Systems Software AG (hereinafter: Beta) shall deliver to the Customer one copy each of the Products in digital form on data media or online. Beta shall then also be entitled to only provide the documentation online if the program is issued on a data carrier.
- 2.2 The Products shall be sent by Beta to the address stated in the Main Agreement or as notified by the Customer in writing. The Customer shall notify Beta without delay, however, not later than within one business day after discovery of the damage or loss, in writing any damage or loss which occurred during shipping and incorrect or incomplete deliveries.
- 2.3 The Customer shall install the programs immediately after receipt, examine them as to their functionality and notify to Beta in writing and without delay any defects.
- 2.4 The alphanumerical codes necessary for the use of the programs (hereinafter: "Execution Keys" and/or "Licence Strings") shall be transmitted to the Customer within ten days after receipt of payment in accordance with the "Payment" provisions of the Main Agreement.
- 2.5 On signing the Main Agreement the Customer shall receive temporary "Execution Keys" and/or "Licence Strings", which enable temporary use of the programs. The validity of these temporary "Execution Keys" and/or "Licence Strings" is limited to 30 days from handover and can be recalled by Beta at any time, as it wishes.

### 3. Customer's Rights of Use

- 3.1 According to Item 1 of the Main Agreement, Beta shall grant the Customer a temporally limited, simple and non-transferable right to use the Products in accordance with the provisions of the terms and conditions of the Copyright Law and these General Terms and Conditions at the place(s) of installation stated in the Main Agreement (the customer's address will be that specified in the Main Agreement, unless otherwise specified in that Agreement.).
- 3.2 The Customer may create a backup copy of the programs handed over to them for the term of the agreement which copy must bear the copyright note of the original data medium. The Customer shall delete this backup copy upon termination of the rental period.  
Further duplicates, which also include the printout of the program code on a printer, may not be created by the Customer.  
The Customer shall return to Beta all Products handed over by Beta in accordance with Item 1 as well as the data media handed over to the Customer according to Item 5.6 with versions resp. releases including the associated documentation handed over shall be returned in full immediately following the expiry of the rental period at the cost of the Customer.
- 3.3 Use of the programs shall be limited to (a) the number of clients and servers documented in the Main Agreement or to computers the maximum use of which does not exceed (b) the MIPS value (number of installed MIPS ["million instructions per second"]) or (c) the usage value for IBM MVS and/or OS/390 and z/OS operating systems or (d) the amount of managed SAM IDs. A Managed SAM ID is defined as an instance of the SAM User ID which may be connected with multiple logon IDs or accounts on the managed target system. A managed SAM ID can represent both SAM Internal and SAM External Users. "SAM External User" means an identified or anonymous individual user of the corporate network and other IT systems of a SAM customer, which acts (a) on his/her private behalf (i.e. neither acting on behalf of the SAM customer nor any other legal person) and (b) for the intended purpose of obtaining the services or goods of the SAM customer. He/She is only authorized to use specially designed parts of the corporate networks and other IT systems of the SAM customer. "SAM Internal User" is every SAM User that is not a SAM External User. In particular, employees and contractors of the SAM customer as well as computer resources with a user ID are "SAM Internal Users". The licensed number of Managed SAM IDs which is not explicitly related to SAM External Users in the Main Agreement may be used for the maintenance of SAM Internal Users.

Where applicable, the respective decisive MIPS values shall be calculated according to the current publications of the Gartner Group in the World Wide

Web; if such publications are not available, the value which another group comparable to the Gartner Group has determined shall be taken.

- 3.4 The Customer is not permitted: To hand over, sell on or further rent out the Products to third parties nor to grant sub-licences or provide products' computer capacity or services to third parties (outsourcing service providers). The Customer is also not permitted to translate or process, arrange or carry out any other reworking of the programs or the duplication of results achieved. Similarly, the source code of the programs shall not be manipulated without the express written permission of Beta.
  - 3.5 Several programs include the following third party computer programs: ObjectPool and eMerge from Sapiens, IBM Intelligent Miner from IBM, Siron from Tonbeller, iT\_SEC\_signon and iT\_SEC\_sci from IT\_SEC, and SecurPass Reset and SecurPass Sync from Proginet. The terms and conditions of the Main Agreement and these General Terms and Conditions apply without limitation for these computer programs and the corresponding subsequent versions. The Customer shall not develop and/or run any other programs as the programs on the basis of the named computer programs.
- ### 4. Extension of the Rights of Use, Payment for Extension
- If the Customer wishes to use the programs on a greater number of (a) clients and/or servers or on computers with a higher (b) MIPS value or (c) usage value or (d) amount of Managed SAM IDs than stated in the Main Agreement (extended use) Beta may extend the right of use granted to the Customer at the rate of payment to be taken from the currently valid Beta price list based on MIPS values or usage values. Any agreement concerning an extension of the right of use shall be concluded in a separate agreement which shall be supplemental to the then existing Main Agreement for the programs affected by the amendments.
- ### 5. Servicing and Maintenance
- 5.1 Irrespective of the rights of the Customer stipulated in Item 8 of these General Terms and Conditions, Beta shall eliminate for the payment agreed under the Main and/or Basic Agreement all defects which affect the functionality of the programs for the purpose agreed in the Main Agreement or not only reduce it appreciably in that Beta, according to choice, shall eliminate the defect, replace the program or provide a solution for circumvention with the same functionality throughout the rental period in exchange for the rent agreed in the "Rent" provision of the Main Agreement and/or the Basic Agreement.
  - 5.2 Notice of defects shall be given without delay, however, not later than within one business day after the defect has become known, and in writing (including by email or fax) and the occurrence of the defect described in a comprehensible manner.  
Beta shall initiate without delay after receipt of written notice measures for the elimination of defects. If, for the elimination of defects, a program has to be implemented, Beta shall transmit this to the Customer on a suitable data medium. In the description, limitation, determination and notification of defects, the Customer must follow the instruction issued by Beta. The Customer shall present his notice of defects or error message and questions as precisely as possible and, for this purpose, fall back on competent members of his staff.  
During any necessary test runs, competent staff members of the Customer shall be authorised to assess defects, functional extensions, functional reductions and alterations to the program structure, and to decide to be present personally. If necessary, other work with the Customer's computer system shall be terminated or suspended during the period of servicing or maintenance works.
  - 5.3 Beta's obligation to eliminate defects shall be conditional on the program concerned being installed in a release resp. version status still supported by Beta (cf. Item 5.6). If this is not the case and Beta nevertheless eliminates the defect in accordance with Item 5.1, the Customer shall bear the costs in addition to the remuneration in accordance with the "Rent" provision of the Main Agreement and/or Basic Agreement.
  - 5.4 Beta's obligation to eliminate defects is also conditional to the respective program being installed on a platform which is generally still maintained by the platform manufacturer at the time Beta is notified of the defect. Individual service agreements between the platform manufacturer and the Customer, which extend beyond the general service period, shall not be taken into consideration. Item 5.3 Sentence 2 applies accordingly.
  - 5.5 In the case of verifiably unfounded notice of defects which, for example, can be put down to a hardware or operating error, Beta may invoice the Customer for the works carried out by it on the basis of the notice of the apparent defects according to the currently valid payment rates.
  - 5.6 Within the framework of servicing, Beta shall regularly at no cost provide the Customer with the Beta releases resp. versions of the programs listed in the Main

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Agreement and/or Basic Agreement and the updated versions of the documentation belonging to the current programs.

Beta shall announce to the Customer the point of time from which the current release resp. version is no longer supported by Beta and shall provide the Customer with new releases resp. versions at least three months before this fixed date.

Insofar as the Main Agreement refers to the programs SAM and SAM Jupiter as well as the corresponding add-ons, Beta shall only provide the Customer with the releases resp. versions named in Item 5.6 Para 1 and 2 on written request. The validity of Item 5.3 shall remain unaffected by this.

- 5.7 On workdays (Monday – Friday) between 8 a.m. and 6 p.m. (CET), Beta shall provide information on a special telephone hotline for questions connected with the use of the programs including their operation and the elimination of disturbances.
- 5.8 Beta shall provide additional support through the developer of the program concerned or a system engineer, especially for local customers, for corresponding payment on the basis of a special agreement.

### 6. Extraordinary Termination

- 6.1 The Parties are entitled to terminate the agreement at any time for an important reason.
- 6.2 Termination shall be carried out in writing.

### 7. Rent, Payment Terms

- 7.1 The rent to be paid by the Customer is stipulated in the Main Agreement and/or Basic Agreement. The service and maintenance works described in Item 5 are included in the rent (Item 4 of the Main Agreement).
- 7.2 Set-off by the Customer is excluded unless the demand concerned is undisputed or has been determined with legal effectiveness.
- 7.3 All prices stated in the Main Agreement, these General Terms and Conditions and the Beta price lists shall be subject to the currently valid statutory VAT.

### 8. Warranty with respect to Software Rental

- 8.1 Beta shall eliminate defects in the Products but only after receipt written notice from the Customer that defects affect or remove the functionality of the programs for the customary or contractually agreed purpose.
- 8.2 Beta shall eliminate the defects within a reasonable period following receipt of relevant written notification in that Beta, at its own discretion, shall deliver a replacement, supply a replacement which removes the defect or supplies a circumventing solution which is equal in functionality. As long as the free improvement or replacement delivery is not deemed a failure, the Customer's right to terminate the agreement due to failure to guarantee use shall be precluded.
- 8.3 The Customer shall give notice of any defect arising without delay, however, not later than within one business day after the defect has become known, and in writing. It is the responsibility of the Customer to support Beta in the elimination of defects as far as possible, in particular to supply information required and, if necessary, to provide error and console logs.
- 8.4 For defects which have been caused by non-contractual use of the programs, there shall be no warranty obligation for Beta.
- 8.5 Beta makes no further warranties with respect to the programs except for claims due to malice and in the case of guarantee for the composition of the Products or parts thereof.

### 9. Liability

- 9.1 The liability for hindrance to performance on conclusion of the agreement and for impossibility and delay shall be limited to five times the monthly rent due according to the "Rent" provision of the Main Agreement and to such damage which is to be typically expected within the scope of the software rental and servicing/maintenance.
- 9.2 Otherwise, Beta shall only assume unlimited liability for malicious intent and/or gross negligence including when on the part of its authorised representatives and employees as well as losses due to legal errors and lack of the assured properties. Beta shall only be liable for the fault of other vicarious agents to the extent of the liability for initial ineffectiveness in accordance with Item 9.1.
- 9.3 Beta shall only be liable for slight negligence insofar as an obligation is infringed the adherence to which is of particular significance for the achievement of the purpose of the agreement (cardinal obligation). In the case of infringement of a cardinal obligation the limitation of liability according to No. 9.1 of the General Terms and Conditions shall be applied accordingly.
- 9.4 Beta's liability irrespective of blame for defects that already exist at the time the agreement is concluded is explicitly precluded.
- 9.5 Liability for the loss of data shall be limited to the typical expenditure for restoration which would arise in the case of the regular creation of backup copies

in accordance with the danger. Beta shall not be liable for any damage that occurs as a result of the Customer interrupting or discontinuing the use of the programs.

- 9.6 The provisions above shall apply also in favour of the employees of Beta.
- 9.7 Item 9 shall not apply to death or injury to body or health which can be put down to negligent violation of obligations by Beta or intentional or negligent violation of obligations on the part of an authorised representative of vicarious agent of Beta.

### 10. Confidentiality

The Parties mutually undertake to treat all information which they receive within the scope of the Main Agreement and these General Terms & Conditions concerning internal matters of the other Party and about the subject matter of the Agreement as strictly confidential. The same applies for the content of the Main and Basic Agreement, especially their terms and conditions, as well as the content of these General Terms and Conditions. The Parties shall only make confidential information accessible to their employees, representatives or authorised agents to the extent necessary for the performance of the Main Agreement and these General Terms & Conditions. Furthermore, the Parties shall oblige their employees, representatives or authorised agents to treat as confidential all information about internal matters concerning the other party. This obligation shall also apply for a further period of three years after the Main Agreement has ended.

### 11. Rights of Third Parties

If third parties assert claims against the Customer in connection with the use of the Products due to a violation of copyright or the violation of other commercial protective rights or competition claims, the Customer shall inform Beta immediately and, in mutual agreement with Beta, proceed against such claims both in and out of court. Beta shall support the Customer in the defence of such claims to the best of its ability.

### 12. General

Beta is entitled to name the Customer within the scope of its marketing activities, marketing documents and other publications, especially publications with an advertising content, and to name the Customer as such. Furthermore, Beta has the right to publish basic facts concerning the contract conclusion in its mandatory publications as a publicly listed company.

The Parties undertake to document alterations to the Main Agreement and to these General Terms and Conditions in writing.

The Customer undertakes to notify Beta in writing immediately if the place(s) of installation of the programs is altered.

The legal relations of the Parties from or in connection with the Main Agreement and the Beta General Terms and Conditions are subject exclusively to the Laws of the Federal Republic of Germany. The exclusive place of jurisdiction for all legal disputes arising from or in connection with the Main Agreement and these General Terms and Conditions shall be Berlin.

If one or more provisions of the Main Agreement are or become ineffective or non-executable, the effectiveness of the remaining provisions shall not be affected. The effective provision shall take the place of that ineffective or non-executable provision with retroactive effect which most closely approaches what the parties desired on conclusion of the agreement. The same shall apply to any omission in the Main Agreement.