General Terms and Conditions

of KONCEPT Management Information Services GmbH

(hereinafter referred to as "contractor")
for entrepreneurial transactions

1. Scope of contract and validity

1.1.   All orders and agreements are only legally binding if they are signed by the contractor in writing and in accordance with the company and are only binding to the extent stated in the order confirmation. Unless otherwise agreed, the Customer's terms and conditions of purchase are hereby excluded for the present legal transaction and the entire business relationship. Silence on the part of the Contractor with regard to deviating general terms and conditions shall not be deemed to constitute consent. Offers are always subject to change without notice.

2. Performance and testing

2.1.   The subject of a contract may be
- Development of organizational concepts
- Global and detailed analyses
- Creation of individual programs
- Supply of library (standard) programs
- Acquisition of usage rights for software products
- Acquisition of licenses for the use of works
- Participation in commissioning (conversion support)
- Advice by telephone
- Support contracts
- Training
- Program maintenance
- Creation of program carriers
- Other services

2.2.   The development of individual organisational concepts and programmes shall be carried out according to the type and scope of the binding information, documents and aids provided in full by the client. This also includes practice-oriented test data as well as sufficient test possibilities, which the client provides in due time, during normal working hours and at his own expense. If the client is already working in live operation on the system provided for testing, the client shall be responsible for securing the real data.

2.3.   The basis for the creation of individual programs is the written performance specification, which the contractor prepares against cost calculation on the basis of the documents and information made available to him or which the client provides . This performance specification is to be checked by the customer for correctness and completeness and is to be provided with his approval note. Later change requests can lead to separate date and price agreements.

2.4.   Individually created software or program adaptations require a defective program acceptance for the respective program package concerned no later than four weeks after delivery by the customer,

unless otherwise agreed. This will be confirmed by the customer in an acceptance protocol. (Check for correctness and completeness on the basis of the performance specification accepted by the contractor using the test data provided under point 2.2). If the Customer allows the period of four weeks to elapse without program acceptance, the delivered software shall be deemed to have been accepted as of the end date of the said period. If the client uses the software in live operation, the software shall be deemed accepted in any case.

Any defects that may occur, i.e. deviations from the performance specifications agreed in writing, must be sufficiently documented by the Customer and reported to the Contractor, who will endeavour to remedy the defects immediately. If there are significant defects that have been reported in writing, i.e. if real operation cannot be started or continued, a new acceptance is required after the defects have been remedied.

The client is not entitled to refuse acceptance of software due to insignificant defects.

2.5.   When ordering library (standard) programs, the customer confirms with the order that he is aware of the scope of services of the ordered programs.

2.6.   Should it become apparent in the course of the work that the execution of the order in accordance with the service description is actually or legally impossible, the contractor is obliged to notify the client of this immediately. If the client does not change the performance specification to this effect or creates the prerequisites for the execution of the order to become possible, the contractor can refuse to execute the order. If the impossibility of execution is the result of a failure on the part of the Customer or a subsequent change to the performance specification by the Customer, the Contractor shall be entitled to withdraw from the order. The costs and expenses incurred up to that point for the contractor's work as well as any dismantling costs shall be reimbursed by the client.

2.7.   Program carriers, documentation and service descriptions are sent directly to the customer "full duty paid" to the agreed location. Any additional training and explanations requested by the client will be invoiced separately. Insurances, with the exception of the obligatory business liability insurance, will only be taken out at the request of the client; costs and expenses incurred for this are to be reimbursed by the client.

2.8.   Fulfilment of the contract by the contractor is subject to the proviso that fulfilment is not hindered by any obstacles due to national or international (re-)export regulations, in particular embargos and/or other sanctions.

3.   **Prices, taxes and fees**

3.1.   All prices are in Euro without value added tax (VAT). They are only valid for the present order. The prices quoted are to be understood ex business location or office of the contractor. The costs for any contractual fees will be invoiced separately. The price is based on normal working hours and an 38.5 h week.

3.2.   For library (standard) programs, the list prices valid on the day of delivery shall apply. For all other services (organizational consulting, programming, training, conversion support, telephone consulting, etc.), the work involved shall be invoiced at the rates valid on the day the service is provided. Deviations from a time expenditure on which the contract price is based and for which the Contractor is not responsible shall be charged according to the actual amount incurred.

3.3.   The costs for travel, daily allowance and overnight stays will be invoiced separately to the client according to the respectively applicable rates. Travel times shall be considered working time.

3.4.   Cost assurance: for contracts with a term of more than one year or contracts that are extended without renegotiation, we reserve the right to adjust costs in line with inflation. This is based on the Austrian consumer price index CPI 2015, published by Statistik Austria. The adjustment by the cumulative price increase since the last cost fixing will only be made if it exceeds 5% and will take effect from the next renewal of the contract or the next beginning of the year.

4.   **Delivery date**

4.1.   The contractor shall endeavour to meet the agreed dates of performance (completion) as closely as possible.

4.2.   The desired performance deadlines can only be met if the customer provides all necessary work and documents in full on the dates specified by the contractor, in particular the performance specification accepted by him according to point 2.3, and meets his obligation to cooperate to the necessary extent.

Delays in delivery and cost increases caused by incorrect, incomplete or subsequently changed data and information or documents made available are not the responsibility of the contractor and cannot lead to the contractor's default. Any resulting additional costs shall be borne by the Customer.

4.3.   In the case of orders which comprise several units or programs, the contractor is entitled to make partial deliveries or issue partial invoices. Licenses for library (standard) programs will be invoiced immediately after delivery.

5.   **Payment**

5.1.   The invoices issued by the contractor, including value added tax, are payable within 14 days of receipt of the invoice without any deductions and free of charges. For partial invoices, the terms of payment specified for the entire order apply in the same way.

5.2.   In the case of orders which comprise several units (e.g. programs and/or training, realizations in partial steps), the contractor is entitled to invoice each individual unit or service after delivery.

5.3.   Compliance with the agreed payment dates shall be an essential condition for the performance of the delivery or fulfilment of the contract by the contractor. Failure to comply with the agreed payments entitles the contractor to stop the current work and to withdraw from the contract. All associated costs and loss of profit shall be borne by the Customer.

In the event of late payment, default interest will be charged at the usual bank rate. If two instalments are not paid for partial payments, the Contractor shall be entitled to set a deadline for payment and to demand payment of any accepted bills.

5.4.   The client is not entitled to withhold payments due to incomplete total delivery, guarantee or warranty claims or complaints.

5.5   The delivered goods and software licences remain the property of the contractor until the invoice amounts plus any default interests and costs have been paid in full. If the customer is in default of payment, we shall be entitled to temporarily take back the goods and software licenses subject to retention of title at the customer's expense. The taking back does not constitute a withdrawal from the contract, unless the contractor has expressly declared this. However, in the event that the

retention of title is asserted, all payment obligations of the Customer shall remain completely unaffected.

5.6.   In any case, the client is entitled to charge pre-litigation costs, in particular reminder fees and fees of his legal counsel.

6.   **Copyright and use**

6.1.   The scope of our delivery includes a licence which covers the MMS components specified in the cost breakdown. This license does not entitle the client exclusively to use and operate the specified MMS components for the implementation of the specified functions at the agreed location in the selected line, to make administrative changes to the MMS components and to connect further stations. This licence does not entitle the Client to change or supplement MMS programs, whether by extending the existing or accessible source code or by using reverse engineering methods.

The further development of the MMS System, as well as the use of the MMS System by third parties or in other locations or production lines of the Client is expressly reserved for the Contractor. The MMS System remains the intellectual property of the contractor, all rights arising from this remain reserved for the contractor.

The entire plant-specific configuration of the MMS system and all process data remain the intellectual property of the customer.

The client does not aquire rights over the use specified in the present contract by his cooperation in the production of the software.

6.2.   The client is permitted to make copies for archive and data backup purposes under the condition that the software does not contain any explicit prohibition of the licensor or third parties and that all copyright and ownership notices are transferred unchanged into these copies.

6.3.   Should the disclosure of interfaces be necessary for the establishment of interoperability of the software in question, the customer shall order this from the contractor against payment of costs. If the Contractor fails to comply with this requirement and decompiles in accordance with copyright law, the results shall be used exclusively for the production of interoperability. Abuse results in damages.

6.4.   If the customer is provided with software whose licence holder is a third party (e.g. standard software from Microsoft), the granting of the right of use is governed on the licence conditions of the licence holder (manufacturer).

7.   **Right of withdrawal**

7.1.   In the event that an agreed delivery time is exceeded due to the sole fault or unlawful action of the contractor, the client is entitled to withdraw from the order in question by means of a registered letter, if the agreed service is not provided in essential parts even within the reasonable period of grace and the client is not at fault.

7.2.   The client is entitled to withdraw from this contract in whole or in part for important reasons, the causes of which lie with the contractor, without compensation to the contractor in the following cases, provided that no other solution could be agreed upon in mutual negotiations between the contracting parties:

a) If the contractor exceeds his delivery date by more than 6 months due to force majeure.

b) If the contractor or the client is declared bankrupt or gets into such an economic situation that they are manifestly unable to fulfil their obligations under this contract, the other party is entitled to terminate this contract with immediate effect, either in whole or for the part of the system that has not been delivered.

c) If the delivery is delayed by more than 6 months due to force majeure at the Customer's premises or by more than 6 months for other reasons dependent on the Customer, the Contractor shall be entitled to terminate the contract if no other solution could be found in the negotiations between the parties.

d) If the contract is cancelled for a reason for which the Client is responsible, the Contractor is entitled to receive compensation from the Client for the direct costs incurred. The Customer shall then be entitled to take possession of the parts of the system already delivered.

e) If the contract is revoked due to force majeure, the contracting parties shall agree in mutual discussions on the distribution of the costs incurred.

f) If one of the contracting parties is of the opinion that he has acquired the agreed right of withdrawal, he must immediately inform the other party in writing and disclose within 2 months of his notification whether or not he is exercising this right of withdrawal.

g) The withdrawal of the contract does not result in any other consequences or obligations for the contracting parties other than those listed above..

7.3. The obligations of each contracting party are suspended by force majeure. "Force majeure" is defined as unforeseen and unavoidable events such as war, acts similar to war, attacks, natural disasters, fire (unless the contractor is responsible), earthquakes, floods, recognised labour disputes, official measures, etc.

The party hindered in the performance of her obligations by force majeure must inform the other party of the beginning and end of the effects of the force majeure within 2 days of the occurrence of the force majeure or within 2 weeks at the latest.

The hindered party must then submit a confirmation from the local chamber of commerce as soon as possible. The performance deadlines of the affected party shall be extended by the period of the force majeure. If the hindered party does not bring the evidence referred to in this point to the attention of the other party, she cannot claim force majeure. Delays in delivery caused by force majeure of a subcontractor shall be considered force majeure for the contractor if the contractor can prove that he is unable to provide a replacement.

7.4. Cancellations by the client are only possible with the written consent of the contractor. If the contractor agrees to a cancellation, he has the right to charge a cancellation fee equal to 30% of the unbilled order value of the entire project in addition to the services rendered and accrued costs.

7.5. If insolvency proceedings are opened against the assets of the customer or an application for the opening of insolvency proceedings is rejected due to insufficient assets, the contractor is entitled to withdraw from the contract without setting a grace period. If this withdrawal is exercised, it shall become effective immediately upon the decision that the company will not be continued. If the company is continued, a withdrawal shall only become effective 6 months after the opening of insolvency proceedings or after the application for opening of insolvency proceedings has been rejected due to lack of assets. In any case, the contract shall be terminated with immediate effect, provided that the insolvency law to which the customer is subject does not preclude this or if the

termination of the contract is indispensable to avert serious economic disadvantages for the Contractor.

7.6.   Without prejudice to the contractor's claims for damages including pre-litigation costs, in the event of withdrawal any services or partial services already provided shall be invoiced and paid for in accordance with the contract. This shall also apply if the delivery or service has not yet been taken over by the customer as well as for preparatory actions performed by the contractor. In lieu thereof, the contractor shall also be entitled to demand the return of items already delivered.

7.7.   Any other consequences of withdrawal are excluded.

7.8.   The assertion of claims due to laesio enormis, error and omission of the business basis by the client is excluded.

8.   **Warranty, maintenance, modifications**

8.1.   The contractor guarantees that the software fulfils the functions described in the associated documentation, provided that the software is used in the system environment described in the contract (computer, operating system, runtime frameworks, libraries, additional software such as database servers, message broker, etc.).

8.1.1   The Contractor shall not assume any liability for additional software from third parties, in particular also not for open-source software of third parties that is installed together with MMS and is operated together with MMS, whereby it is irrelevant whether this additional software interacts directly with the software delivered by the Contractor.

8.2.   The contractor does not guarantee that the delivered software and documentation is free of errors. This applies to both standard software and individual software. The creation of error-free software is not possible according to the current state of technology.

8.2.1   If errors occur in the software supplied by the contractor, the prerequisite for the elimination of errors is that

–   the client describes the error sufficiently in an error message and this error message can be understood by the contractor;

–   the client provides the contractor with all documents necessary for the correction of the error;

–   the client or a third party attributable to him has not has not interfered with the software;

–   the software is operated under the intended operating conditions according to the documentation.

8.2.2   In case of warranty, improvement shall in any case have priority over price reduction or rescission. In the event of a justified notification of defects, the defects shall be remedied within a reasonable period of time, for which the customer shall enable the contractor to carry out all measures necessary for investigations and remedy of defects.

8.2.3   The presumption of defectiveness in accordance with § 924 Austrian Civil Code ABGB is excluded.

8.2.4   Corrections and additions which prove necessary until the agreed service is handed over due to organisational and programme-related defects for which the contractor is responsible shall be carried out by the contractor free of charge.

8.3. Costs for assistance, misdiagnosis as well as error and malfunction elimination for which the customer is responsible as well as other corrections, changes and additions will be carried out by the contractor against payment. This also applies to the elimination of defects if program changes, additions or other interventions have been made by the customer himself or by third parties.

8.4. Furthermore, the contractor does not assume any liability for errors, malfunctions or damage caused by improper operation, changed or modified operating system components, interfaces and parameters, use of unsuitable organisational means and data carriers, if such are prescribed, abnormal operating conditions (in particular deviations from the installation and storage conditions) and transport damage.

8.5. For programs that are subsequently modified by the customer's own programmers or third parties, any warranty by the contractor is void.

8.6. Insofar as the subject of the order is the modification or supplementation of already existing programs, the warranty refers to the modification or supplementation. This does not revive the warranty for the original program.

8.7. Warranty claims shall be time-barred six (6) months after delivery.

8.8. Unless otherwise agreed, the contractor offers the statutory warranty for the standard software and individual software for a period of one (1) year after installation and acceptance of the system. Should the acceptance not be possible to take place in due time for reasons for which the customer is responsible, the warranty period shall commence at the latest one (1) month after notification of completion by the contractor.

9. **Liability**

9.1. The transfer of risk for the system is transferred to the customer as soon as the customer has signed the acceptance protocol. Until that time, the contractor shall bear full responsibility for the contractual delivery of the system.

9.2. The contractor is liable to the client for direct or indirect damage for which he is demonstrably responsible only in the case of intentional or grossly negligent acts by the contractor. This also applies analogously to damages which are attributable to third parties called in by the contractor. In the case of culpable personal injury, the contractor is liable without limitation.

9.3. The liability for indirect damages - such as loss of profit, costs associated with an interruption of operations, loss of data or claims of third parties - is expressly excluded.

9.4. Claims for damages shall become statute-barred in accordance with the statutory provisions, but no later than one year after the damage and the damaging party have become known.

9.5. If the Contractor performs the work with the assistance of third parties and warranty and/or liability claims arise against these third parties in this connection, the Contractor shall assign these claims to the customer. In this case, the customer will primarily hold these third parties responsible.

9.6. If data backup has been expressly agreed as a service, liability for the loss of data is not excluded in deviation from point 9.2, but for the restoration of data is limited to a maximum of EUR 10 % of the net order value per claim, but not exceeding EUR 15,000. Further warranty and compensation claims of the customer other than those mentioned in this contract - regardless of the legal basis - are excluded.

9.7.	The contractor is liable for ensuring that the use of the system is in no way impaired by the assertion of third party property rights (trademarks, samples, patents, etc.). Should infringements of industrial property rights be claimed, the contractor undertakes to indemnify and hold the customer harmless against claims of third parties without restrictions and to guarantee the customer the unrestricted use of the system.

9.8.	Neither party shall be liable to the other for loss of sales, loss of profit, incidental, indirect, consequential, special or punitive damages. Neither party shall be liable for the acts or omissions of its Affiliates under this Agreement.

9.9	In any event, the total liability of the contractor for all direct or indirect damages, whether insured or not, is fixed cumulatively at a maximum of the contract amount.

9.10.	Liability for slight negligence as well as compensation for consequential damage, pure financial loss, indirect damage, loss of production, financing costs, loss of energy, data or information, loss of profit, savings not achieved, loss of interest and damage arising from third-party claims against the client are excluded.

9.11.	The Contractor shall not be liable for malfunctions in additional software from third parties, in particular not for open-source software from third parties that is installed together with MMS and is operated together with MMS, whereby it is irrelevant whether this additional software interacts directly with the software supplied by the Contractor.

10.	**Loyality**

10.1.	The contracting parties commit themselves to mutual loyalty. They will refrain from any recruitment and employment, also via third parties, of employees who have worked on the realization of the orders, of the other contracting party during the duration of the contract and for 12 months after the termination of the contract. The party to this contract who violates this provision shall be obliged to pay lump-sum damages in the amount of one annual salary of the employee.

11. **Data protection, confidentiality**

11.1.	The contractor obliges his employees to comply with the provisions of §15 of the Austrian Data Protection Act.

11.2	Kon-Cept undertakes to treat all information received from the Customer in the course of this project as a trade secret, unless such information is freely available from other sources, is state of the art or has been explicitly released by the Customer for publication by Kon-Cept and not to make such information available to third parties without the Customer's express written consent.

11.3.	The contractor may rely on data which are necessary for the performance of the contract (necessary documentation etc.) or on a legal basis and does not need to obtain separate consent / approval for this.

12. **Applicable law, place of performance, place of jurisdiction**

12.1. The GTC and the contractual relationship shall be governed exclusively by substantive Austrian law, excluding the provisions of the UN Convention on Contracts for the International Sale of Goods and excluding the non-mandatory conflict of law rules/reference rules of private international law

(IPRG). Further references or back references are excluded. The parties may, however, agree in writing to a different foreign substantive law.

12.2. The place of performance is our registered office in Austria (Europe).

12.3. The court of jurisdiction for all disputes arising out of or in connection with the contractual relationship in question shall be the competent court for our registered office in Austria (Europe) in the event of claims by the contractor against the customer. In any case we have the right to also sue at the general or any special court of jurisdiction of the customer.

The exclusive place of jurisdiction for all disputes arising from or in connection with the contractual relationship in question shall be the court with jurisdiction over the subject matter at our registered office in Austria (Europe) in the event of claims by the customer against the contractor.

13. **Written form requirement, reference customers, change of address/data, other**

13.1. All agreements, subsequent amendments, supplements, subsidiary agreements etc. must be in writing to be valid. This shall also apply to any departure from this requirement of written form.

13.2. The contractor is entitled to name the customer - in whatever way - as a reference customer.

13.3. If the address or the data of the customer changes, in particular those required for the processing of the contractual relationship (e.g. personal data, invoice address, etc.), the customer must inform us immediately. Until we receive this declaration, declarations and invoices shall be deemed to have been received by the customer if they are sent to the original address/data.

13.4. The assignment of rights and obligations from a contractual relationship concluded on the basis of these General Terms and Conditions and the transfer of this contractual relationship by the customer to a third party requires our prior written consent.

13.5. Restrictions on general business activities: The contractor, when performing work at the customer´s premises, shall

(a) not carry out business activities (e.g. interviews, recruitment, dismissals or recruitment) in the customer´s offices or premises which are not related to the customer

(b) not attempt to obtain special services from the customer

(c) not send or receive mail through the postal systems of the customer other than those of the customer; and

(d) not sell, advertise or market products in the customer´s offices or premises in printed, written or graphic form without the written consent of the customer

13.6.   Prohibition of taking advantage: The contractor must be aware of and strictly comply with all laws and regulations relating to bribery, corruption and unfair business practices. The contractor undertakes not to use payments or gifts (money or valuables) to influence, directly or indirectly, decisions of third parties in favour of the customer or its subsidiaries or affiliates.

13.7.   Should individual provisions of this contract be or become ineffective, the remaining content of this contract shall not be affected. The contracting parties shall cooperate in a spirit of partnership in order to find a provision which comes as close as possible to the ineffective provisions.