

## General Conditions of Contract (AVB) of Lutz & Grub AG

### § 1 Scope of Conditions

1. For all deliveries and services on behalf of Lutz & Grub AG as well as with respect to pre-contractual business contacts solely the prevailing general conditions of contract (AVB) shall apply. Conditions on behalf of the ordering party shall not be content of the contract even in the event that Lutz & Grub AG does not formally object.

2. The general conditions of contract of Lutz & Grub AG shall be valid with respect to any business commerce in their relevant valid amendment, even if upon conclusion of additional contracts there will be no further indication hereto. This shall not apply if the contracting parties have agreed differently in written form.

3. The general conditions of contract shall not apply if the ordering party is a consumer in the legal sense and meaning of § 13 BGB, thus, using the services of Lutz & Grub AG neither for any commercial nor freelance business activities.

4. All modifications and amendments of the prevailing conditions of contract must be stipulated in written form in order to be effective. This also applies for a waiver with respect to the written form. The existence of a mere text (e.g. E-Mail) according to § 126 b BGB shall not be considered sufficient on this behalf.

### § 2 Subject of the Contract

1. Offers on behalf of Lutz & Grub AG remain without obligation and non-committal unless the offer has been stipulated in written form and indicated as binding or terminable. A contract shall be concluded by written order confirmation on behalf of Lutz & Grub AG or due to the fact that Lutz & Grub AG duly carries out the order.

2. A mutually signed contract is relevant for the quantity and nature of the supplies and services or an order confirmation on behalf of Lutz & Grub AG stipulated in written form; otherwise the offer requested by the ordering party from Lutz & Grub AG shall apply. Implementation of service requests on behalf of the ordering party shall be stipulated in written form between the contracting parties or confirmed by Lutz & Grub AG in writing.

3. The ordering party shall verify that the specifications of the contract meet all relevant needs and expectations. In the event of doubts the ordering party shall seek expert consulting prior to conclusion of the contract.

4. If Lutz & Grub AG shall be assigned to establish a target specification; Lutz & Grub AG shall elaborate such target specification in close cooperation with the ordering party. Upon completion the ordering party shall verify full implementation and consideration of all requirements and needs stipulated by the ordering party with respect to the target specification. Any content with respect to data processing or solutions resulting from the target specification shall be verified by the ordering party where possible. He undertakes to immediately indicate any inadequacy, mistakes and incompleteness, enabling remedy. When the requirements of the ordering party are duly im-

plemented, he approves the target specification in written form. For later modifications § 7 (Modifications, Amendments) shall apply.

5. If Lutz & Grub AG supplies standard software, this includes the operational software as well as the user manual (or online support) which also may be included in the software. For individual software and adaptations to standard software the ordering party only receives a user manual if explicitly agreed upon by written contract. Unless otherwise agreed in the contract, the ordering party shall not be entitled to obtain any source software and documentation of the development.

6. Descriptions and illustrations contained in any offers, trial software, product and project layouts shall not be considered guaranteed. These require explicit and written confirmation on behalf of Lutz & Grub AG.

7. Lutz & Grub AG is entitled to assign third parties as auxiliary persons with respect to provision of contractual services.

### § 3 Cooperation of the Ordering Party

1. If useful with respect to fulfillment of contract the ordering party undertakes to support Lutz & Grub AG free of charge by, e.g., supplying personnel, working space, hardware, operation systems and basic software, data and telecommunication devices. Furthermore the ordering party shall communicate Lutz & Grub AG in due times all relevant information necessary for execution of the contract.

2. Prior to productive use the ordering party undertakes to carry out thorough testing of any software services provided by Lutz & Grub AG with respect to any deficiencies. He undertakes to supply expert know-how and personnel upon handing-over of the software.

3. Lutz & Grub AG may be entitled to provide software services by means of remote maintenance. The ordering party supplies all technical equipment and requirements at their own expenses, granting Lutz & Grub AG access to their IT system upon prior notice over the telephone.

4. The ordering party undertakes to take adequate precautions in case of the contractual software not working or partly not working appropriately, e.g. by data-backup, failure diagnosis, regular examination of results etc.

5. In the event of the ordering party failing such obligation to co-operate; Lutz & Grub AG shall not be in default, if cooperation services were relevant for providing the services by Lutz & Grub AG. In the event such missing, defective, incorrect, incomplete or later on corrected cooperation leads to additional costs, Lutz & Grub AG may be entitled to charge these additional costs. Other claims on behalf of Lutz & Grub AG remain untouched.

#### **§ 4 Time of Performance, Delays, Place of Performance, Passing of Risk**

1. Unless Lutz & Grub AG stipulated and confirmed a date in writing details with respect to time and place of performance shall be non-committal. The contractual parties may establish a timetable with respect to provision of services. It contains a rough time pattern for the course of the project. The contractual parties shall update and detail timetables amicably.

2. Delivery and service periods expand to the extent, Lutz & Grub AG has been prevented to provide such services due to circumstances Lutz & Grub AG cannot be held responsible for (e.g. labor disputes, force majeure, shortfall of employees or technical devices without fault of Lutz & Grub AG, nondeliveries of sub-suppliers), as well as to an appropriate ramp-up time after elimination of the delay. Same applies for the time in which the ordering party fails to supply contractual information and cooperation.

3. If Lutz & Grub AG supplies software of third parties, self-supply remains reserved; Lutz & Grub AG therefore only undertakes to carry out the order in due diligence with respect to deliveries and services of third parties and that failing deliveries, for that matter, has its origin not in reasons Lutz & Grub AG can be held responsible for.

4. Any reminders and deadlines on behalf of the ordering party require written form in order to be effective. The existence of a mere text according to § 126 b BGB (e.g. E-Mail) shall not be sufficient. Periods of grace shall be appropriate.

5. Unless otherwise agreed, place of performance shall be the domicile of Lutz & Grub AG. The risk of accidental perishing or accidental worsening of the delivery object passes to the ordering party, ranging from the relevant distributing warehouse; this also applies in the event of delivery by a third party. Partial deliveries shall be granted if the delivered parts may be used individually and reasonably.

6. If the ordering party has caused project delays, Lutz & Grub AG shall be entitled to be remunerated for any expenses arising on this behalf.

#### **§ 5 Remuneration, Payment, Compensation and Assignment**

1. Unless otherwise agreed upon by the contractual parties with respect to remuneration for deliveries and services, the valid price list of Lutz & Grub AG applies valid at the time of conclusion of the contract.

2. Unless otherwise agreed upon in individual contracts the services of Lutz & Grub AG shall be calculated according to effort and complexity.

3. Billing of deliveries and services shall be affected in close temporal association with its implementation, with respect to software upon delivery thereof. In the event of fixed price contracts Lutz & Grub AG is entitled to demand down-payments.

4. The remuneration rates agreed upon apply for work carried out in the premises of Lutz & Grub AG Karlsruhe.

Work carried out in-situ at the ordering party or with respect to business travels on this behalf Lutz & Grub AG discounts additional expenses according to their valid price list.

5. In the event of services not being carried out due to reasons the ordering party is to be held responsible for, Lutz & Grub AG shall be entitled to bill the expenses nonetheless, unless the ordering party proves that Lutz & Grub AG managed savings or failed to do so in a malicious way.

6. All prices are subject to VAT.

7. Payment is due net upon reception of the invoice, payable within 14 days. As long as the ordering party is behind schedule in payment, Lutz & Grub AG is entitled to retain services.

8. The ordering party may only be able to offset undisputed or legally binding claims with respect to Lutz & Grub AG, originating from the same individual contract. The ordering party reserves a right to retention or objection of the default only within the framework of the relevant contract and only in the event of rights of the ordering party being justified by major contract violation on behalf of Lutz & Grub AG or if any counter claims with reference to the right to retention has been declared undisputed or legally binding on this behalf.

9. Claims resulting from this contract may only be transferred to third parties upon prior written authorization by Lutz & Grub AG. § 354 a HGB remains unaffected thereof.

#### **§ 6 Principles of Service Provision**

1. Any planning of task fulfillment will be stipulated according to the requirements of the ordering party by Lutz & Grub AG. At this juncture Lutz & Grub AG undertakes to respect the ordering party's parameters.

2. In the event of services being carried out at the ordering party's premises, Lutz & Grub AG alone shall be authorized to issue directives with respect to its employees. The employees shall not be integrated into the hierarchy of the ordering party's business organization. The ordering party may only express guidelines with respect to Lutz & Grub AG, however, not with respect to the individual member of the staff on behalf of Lutz & Grub AG.

3. Lutz & Grub AG decides upon the assignment of the individual employee with respect to service provision. Lutz & Grub AG reserves the right to exchange assigned members of their staff.

4. Insofar as Lutz & Grub AG providing services with respect to external software or external hardware, Lutz & Grub AG undertakes to provide services based on application related know-how and services on behalf of the external software supplier. Services requiring interfering into the software or where licensing and solutions do not result from the expert knowledge of Lutz & Grub AG shall not owe.

## **§ 7 Modifications, Ameliorations**

1. The ordering party is entitled to demand modifications and ameliorations of the agreed upon scope of services in written form. Lutz & Grub AG is entitled to reject to carry out these modification requests in written form in the event of the execution thereof is considered unreasonable within the framework of their corporate performance level, in the event of the modifications and ameliorations being impossible to implement or if said might lead to a degradation of the agreed upon remuneration.

2. Lutz & Grub AG undertakes to hand over an offer on any additional costs arising due to any modification or amelioration request and informs on the relevant adaptations with respect to the timetable. As long as written agreement fails to prevail, all activities shall be continued according to the existing contract. Legal dismissal possibilities remain unaffected thereof.

3. If validation of the modification and amelioration requests proves to be liable to costs due to the expected efforts, Lutz & Grub AG undertakes to indicate this in due diligence. In this case validation only occurs upon placing an official order by the ordering party with Lutz & Grub AG. Lutz & Grub AG is entitled to invoice costs arising in course of validation as well as any possible stand-still costs with respect to the modification and amelioration request.

## **§ 8 Personal Services at the Ordering Party**

1. Lutz & Grub AG is entitled to allocate employees for a specific period of time to the ordering party for the purpose of contractual service fulfillment. In the event of the place of performance being at the premises of the ordering party the latter undertakes to respect Federal employment law and to fulfill fiduciary duty on this behalf. This contains specifically:

(a) The ordering party supplies a work place meeting the provisions of the work place act.

(b) The ordering party respects the requirements and provisions of the working hours regulation. Excess work may only be granted following consultation with Lutz & Grub AG and under special terms and conditions, each being subject to contract thereof.

(c) The ordering party shall not be entitled any authority to give directions.

2. Lutz & Grub AG provides generally qualified personnel for the relevant tasks. If other qualifications become necessary during the course of business the ordering party undertakes to take care on any effort with respect to trainings and qualification of the staff.

3. If the ordering party is unsatisfied with the performance of one employee of Lutz & Grub AG said employee might be rejected by notice on behalf of the ordering party within the first day of the assignment. Lutz & Grub AG undertakes to provide alternatives within the framework of an adequate deadline. Same applies in the event of authorized or unauthorized absence of the employee of Lutz & Grub AG at the ordering party.

4. The ordering party undertakes to make available the employee provided by Lutz & Grub AG at any time upon prior agreement for vacation and training purposes.

5. The ordering party undertakes to pay a remuneration compensation amounting to 25 days at the daily rate agreed upon to the Lutz & Grub AG in the event of the possibility to transfer an employee of Lutz & Grub AG into a direct employment with the ordering party after termination of the assignment.

## **§ 9 Copyright and Right of Utilization**

1. In the course of business relation between the ordering party and Lutz & Grub AG all copyrights and rights of utilization provided by Lutz & Grub AG shall be due to Lutz & Grub AG solely. Unless otherwise agreed in an individual contract, said applies also if deliveries and services have been provided on behalf of Lutz & Grub AG in cooperation with the ordering party or if these are based on provisions of the ordering party on that behalf. Matter of facts with respect to copyright and right of utilization remain unaffected thereof.

2. If working results are being created due to services carried out by Lutz & Grub AG that are to be considered autonomously subject to industrial property rights, Lutz & Grub AG grants the ordering party in a suspensive manner and bound to the conditions to remunerate the amount agreed upon the non-exclusive right without time and territory restriction to use the result within the framework of their own business purposes. The ordering party is entitled to copy and process the work results for this specific purpose. If he wishes to copy, present, commercially use, send or publish work results on this behalf, this requires prior authorization of Lutz & Grub AG in written form. In the event of Lutz & Grub AG allocating software to the ordering party, the provisions of § 9 apply preferentially.

## **§ 10 Copyright and Concession Granting with respect to Software**

1. The software provided by Lutz & Grub AG (software, manual) is protected by copyright. As far as the contractual business relationship between the contracting parties is concerned, all rights with respect to the software and with respect to maintenance of the provided software as well as to other documents provided by Lutz & Grub AG within the framework of contract initiation and implementation or supplied during trainings on behalf of Lutz & Grub AG are to be considered the sole property of Lutz & Grub AG. If third parties are entitled to rights thereof, Lutz & Grub AG has the relevant rights of utilization on this behalf.

2. Subject to the condition precedent and by remuneration agreed upon the ordering party shall be granted an unlimited non-exclusive right necessary to use the software within the framework of software licensing for their individual corporate purposes just as stipulated in the manuals as well as in section 2 (a) – (d). Rental, leasing, publishing in all possible ways as well as operation of the data center by or on behalf of third parties shall not be allowed without prior written authorization by Lutz & Grub AG.

(a) The ordering party is entitled to upload and use the software into the active store and the main boards of the contractually agreed upon quantity of work stations and servers. He is entitled to create safety copies of the software necessary to enable a smooth and safe operation. Where possible, safety copies shall be marked with the relevant copyright information with reference to the original data carrier. Copies that are no longer in use shall be deleted or destroyed. Manuals shall only be copied for internal corporate use only.

(b) Decompilation of the software for intercompatibility purposes of the software with other software shall only be granted within the framework of the provisions and rights of utilization and if Lutz & Grub AG does not provide all relevant information and documents on this behalf within due time and for relevant remuneration.

(c) Copying of the software beyond the quantities stipulated in lit. (a) as well as all other modes of usage, in particular processing, translation, arrangement and other modifications are forbidden unless necessary for maintaining a particular use including trouble shooting and have failed to be provided for by Lutz & Grub AG or the relevant entitled person on behalf of the ordering party after written invitation.

(d) Insofar as the ordering party assigns a third party within the framework of permission (e.g. for trouble shooting, decompilation) granting said access to the software, the ordering party undertakes to bind this third party with respect to compliance with regulations of use as well as of secrecy according to § 17, also directly where Lutz & Grub AG is concerned.

3. The ordering party is only entitled to use and transfer the software purchased by him on original data carrier to third parties on the whole by written authorization on behalf of Lutz & Grub AG, partial transfer of the software (e.g. unused licenses) shall not be granted. Lutz & Grub AG will grant permission if the ordering party assures in written form prior to transfer that he quits using the software for good and that no copies will be retained and also if third parties undertake in written form to submit to Lutz & Grub AG with respect to contractual regulations of use and transfer. The ordering party allocates the data carriers and manuals to third parties in the original. Software, obtained by the ordering party by means of download or any other electronic form may not be transferred to third parties for that matter.

4. In the event of any copyright violation on behalf of third parties the ordering party undertakes to support Lutz & Grub AG at one's best endeavors and wherever reasonable with respect to judicial and extra judicial protection of rights. The ordering party immediately informs and notifies Lutz & Grub AG in written form, if third parties desire to access any software on behalf of Lutz & Grub AG; he undertakes to indicate the limited right of exploitation.

5. In the event of Lutz & Grub AG supplying software to the ordering party that has been created by third parties, the rights of exploitation comply with the license and exploitation provisions of said third party. If requested by the ordering party, Lutz & Grub AG supplies the relevant software.

## **§ 11 Examination and Notice of Non-Conformity / Buy-off**

1. According to § 377 HGB the ordering party undertakes to immediately have all deliveries of good on behalf of Lutz & Grub AG (software, hardware) examined by a qualified employee and to notify defects in written form and by detailed description thereof.

2. Buy-off has to be carried out only whereas agreed upon previously by written agreement or upon service contract. If said is the case Lutz & Grub AG is entitled to demand a written declaration of acceptance as soon as the delivery or services are to be considered correct for the most part, complete and without defects. Details of the acceptance procedure may be stipulated in the relevant contract. Services are to be considered accepted also without written declaration of acceptance if the ordering party fails to notify any defects in written form within a period of two weeks after delivery or services. The ordering party is only entitled to refuse the acceptance upon occurrence of severe defects.

## **§ 12 Material Defects and Defects of Title**

1. In the event of proven defects with respect to services rendered, in a first attempt and if technically feasible and economically reasonable Lutz & Grub AG guarantees warranty by supplementary performance free of charge. A defect creating warranty claims on behalf of the customer only counts as negative deviation in so far as the contractually agreed upon or conventional use of a matter affects such to a greater extent.

2. Supplementary performance with respect to defects of quality and material shall be chosen by Lutz & Grub AG, namely by repetition of services, rectification of defects or – where possible - by Lutz & Grub AG indicating options to avoid the consequences of said defects. Due to the fact that complex software fails to be entirely perfect and without defects, as a consequence, services concerning software may create a situation where rectifications of defects might not guarantee complete debugging. Furthermore, rectification of defects with respect to warranty of title may also take place by Lutz & Grub AG exchanging the services in dispute for comparable services of equal value meeting the contractual requirements thereof. A different software version delivered within the framework of rectification of defects that is free of said defect has to be accepted by the ordering party even if this leads to an acceptable amount of efforts with respect to adaptations on behalf of the ordering party.

3. Lutz & Grub AG generally fails to have any influence on published promotion produced by third parties. Lutz & Grub AG thus can only be held accountable for public statements on behalf of third parties, especially when promotion is concerned, if said has been initiated or used by Lutz & Grub AG with respect to the ordering party. Such cases only require a commitment if the promotion has influenced the ordering party's decision with respect to buy-off and conclusion of the relevant contract.

4. Whereas delivery items are concerned, particularly with respect to software of a sub supplier, the time required for any rectification thereof shall depend on the organization of said sub supplier. If the ordering party cannot be expected to wait for the next software version free of

defects, Lutz & Grub AG undertakes to elaborate a work-around. Furthermore Lutz und Grub AG is entitled to transfer their own warranty claims with respect to third party suppliers to the ordering party and to supply the latter with all information necessary for enforcement of any of these claims. In the event of the claiming remaining unsuccessful the warranty deeds of Lutz & Grub AG shall be reactivated according to section 1 ff.

5. If third parties claim industrial property rights against the ordering party (particularly copyrights / patent rights), the latter undertakes to notify Lutz & Grub AG immediately in writing. Here and now the ordering party hereby authorizes Lutz & Grub AG to conduct any judicial or extrajudicial dispute with third parties on their own. In the event of Lutz & Grub AG exercising such right, the ordering party is not entitled to accept claims of third parties without prior written authorization on behalf of Lutz & Grub AG. Lutz & Grub AG wards off any claims of third parties at their own expenses. Unless originated in contrary of duty on behalf of the ordering party (e.g. contrarious agreement and software exploitation) and in the event of prevailing assumptions with respect to liability, Lutz & Grub AG indemnifies the ordering party from all costs and defects arising within the framework of any revocatory action.

6. If the supplementary performance fails permanently after several efforts and after a minimum of at least two efforts concerning the same defect, in the event of the complexity of the delivery or service does not justify additional supplementary performances or if Lutz & Grub AG rejects such supplementary performance, the ordering party is entitled to reduce the remuneration of the contract appropriately or to even cancel the contract. § 12 shall apply with respect to indemnity or compensation for failed efforts. Where employment and service contracts are concerned the ordering party shall be granted the right of extraordinary termination of contract instead of rescission.

7. Within the framework of reasonability the ordering party undertakes to take all necessary actions with respect to detection, localization and documentation of the defects. This includes elaborating a nonconformity report, data storage records, provision of all relevant input and output data and other documents apt for visualizing the defects. In the event of occurring defects the ordering party undertakes to allocate all information available to Lutz & Grub AG and to support the rectification of defects according to § 3.

8. Bugs or defects caused or affected by the environment (e.g. operating system, software and other hardware) of the contractual delivery or service may not be charged to Lutz & Grub AG as long as such bugs or defects cannot be eliminated or excluded. If Lutz & Grub AG, however, acts anyhow, they are entitled to invoice the financial efforts to the ordering party. This also applies if it becomes apparent that notifications of defect proved to be unnecessary and that the ordering party should have been aware of this fact. The ordering party is free of bearing any costs if there is proof that the bug or defect results from a performance on behalf of Lutz & Grub AG.

9. Claims with respect to material defects and defects of title lapse within one year beginning with delivery or buy-

off. § 12 section 7 remains intact. Where fraudulent intent and defect of title are concerned granting a third party the right to demand restitution of the supplied matters, the legal statute of limitation shall apply. For the initiation of said statute of limitation legal regulations shall be applicable.

### **§ 13 Compensation for Damages, Substitution Vain Endeavors**

1. Unless otherwise agreed and stipulated, Lutz & Grub AG can only be liable for willful intent and negligence, except for acquisitions of guarantees or exercise risks on this behalf. Any acceptance of guarantees or exercise risks shall be stipulated in written form between the contractual parties.

2. Lutz & Grub AG indemnifies or ensures compensation and substitution for vain endeavors for whatever legal ground, also where extra contractual and pre contractual liability are concerned to the following extent:

(a) On behalf of willful intent Lutz & Grub AG shall be fully liable.

(b) On behalf of negligence and absence of a granted warranty or upon acceptance of any exercise risk Lutz & Grub AG shall be fully liable for the entire amount of the expected defect that should be prevented by due diligence or promise of guarantee.

(c) Upon simple negligence Lutz & Grub AG shall only be liable in the event of violation of a fundamental obligation to perform or an obligation which fulfillment duly enables the contract and on which compliance the contracting party relies thereof on a regular basis (cardinal obligation) or where a fundamental obligation is concerned that endangers the fulfillment of the subject of the contract, on remedy of the defects which has been predictable and typical, limited to the remuneration originated in the prevailing contract with respect to all defects resulting from said contract; where continuing obligations are concerned (e.g. service contract) liability shall be limited on the annual remuneration payable for the relevant contract thereof.

3. Statutory liability for injury of life, body and health and according to the product liability law remains unaffected thereof.

4. If insurance cover is in place, Lutz & Grub AG shall provide the ordering party with the full insurance payment without regard to the agreed liability limitation less payments already transferred by Lutz & Grub AG.

5. Lutz & Grub AG shall only be liable for the replacement of data where the provisions of paragraph 2 if the ordering party ensured that these data are being retrieved in machine-readable form deriving from provided data banks reproducible within the framework of acceptable efforts.

6. Exception to contributory negligence remains open.

7. Claims with respect to compensation or compensation for futile expenditure upon contractual liability or liability external to the contract shall lapse within one year if and in so far as claims are not caused by injuries of life,

body and health or freedom and not due to gross negligence, promises of guarantee or fraudulent intent. The limitation period starts with the end of the year in which the claim arose and the debtee became aware on the circumstances well-founded as well as of the debtee as a person or which the latter could have been made aware of without gross negligence. The statute of limitation starts no later than at the end of the limited time period as stipulated in § 199 section 3 BGB.

#### **§ 14 Duration of the Contract, Termination with respect to Service Contracts**

1. Unless a duration of the contract has been agreed upon with respect to any service contract, the contract shall end upon provision of the services agreed upon. As for the rest statutory provisions shall apply for termination of the contract.

2. The termination on important reason shall be reserved to both contractual parties. Important reason shall be understood to exist in the event of the other party violating a fundamental duty resulting from the contract in spite of having been given notice in writing without eliminating such violation within a specified limited period of time. Important reason for termination of the contract on behalf of Lutz & Grub AG shall also be given if the ordering party falls behind with respect to settlement of a claim on behalf of Lutz & Grub AG longer than a period of two months.

3. Any termination requires the written form in order to become effective. A merely textual form (e.g. Email) shall not be sufficient according to § 126 b BGB.

#### **§ 15 Secrecy, Safekeeping and Data Privacy**

1. The contractual parties undertake to consider all information and documents revealed to them by the relevant other party within the framework of execution of contract as confidential, provided that such information and documents are indicated as confidential or contain company or business secrets. This applies in particular for allocated software. Any exploitation rights granted remain unaffected thereof. The contractual parties undertake to store and safeguard all matters so that any misuse on behalf of third parties shall be excluded.

2. Employees and contractual partners as well as third parties involved in execution of the contract having access to the matters stipulated in section 1 for business purposes, have to be notified and instructed in written form on the obligation to secrecy. Same also applies for the employees of the ordering party with respect to the legal position of the software and authorizations on behalf of the ordering party.

3. Lutz & Grub AG undertakes to obey all data privacy related provisions. In the event of Lutz & Grub AG processing private data within the framework of the prevailing contract, Lutz & Grub AG shall act on behalf of the ordering party for the purpose of § 11 BDSG. Lutz & Grub AG therefore shall only use and process any data within the framework of the prevailing contract or upon other provisions of the ordering party stipulated in writing and in accordance with the legal provisions with respect to

data privacy. Lutz & Grub AG will instruct any sub suppliers likewise with respect to the provisions mentioned above.

4. Lutz & Grub AG undertakes to bind all of their employees being involved with processing of private data in writing according to § 5 BDSG with respect to data privacy and secrecy, willing to account for with respect to the ordering party upon request.

#### **§ 16 Jurisdiction, Choice of Law, Severability Clause**

1. Place of jurisdiction for all disputes arising from this contract shall be Karlsruhe, provided that the ordering party is a merchant or on par with a merchant on this behalf.

2. The laws of the Federal Republic of Germany shall apply exclusively with the exception of the UN Sales Convention.

3. In the event that a provision of these General Conditions of Contract is or becomes invalid or provided that the prevailing contract proves to be incomplete, the contract shall be not affected in its residual content thereof. The inoperative stipulation is substituted for a stipulation that comes, legally effective, economically closest to the whole purpose of the inoperative stipulation. Same applies for possible contractual gaps.

Karlsruhe, September 13<sup>th</sup>, 2011

LUTZ & GRUB AG  
IT Infrastructure Services  
Karlsruhe · Nuremberg

### **Appendix:**

#### **General Terms and Conditions for Training Programs on behalf of Lutz & Grub AG**

##### **§ 1 Registration**

Seminar registration has to be effected in written form via the internet, E-Mail, fax or postal services. Upon reception of a written confirmation on behalf of Lutz & Grub AG registration shall be binding and effected.

##### **§ 2 Service**

The seminar fees for open seminars include the following services: Supply of all relevant hard- and software in appropriate venues for the duration of the seminar; communication of the seminar's content by qualified trainers; hand-outs and documentation (upon availability in German or English); certificate of participation; beverages. For corporate trainings the service description stipulated in the tender applies. Certification fees are not included therein.

### **§ 3 Rescission / Cancellation on behalf of the Customer**

Any rescission or cancellation generally has to be stipulated in written form. In the event of an alternate participant entering into the contract, the customer shall be exempt from the fees listed in the following. As for the rest the following provisos shall be effected: Upon rescission up to 30 calendar days prior to the seminar no fees shall be charged. Up to 14 calendar days prior to the seminar an administrative fee of 50 € shall be due. Up to 7 calendar days prior to the seminar 50% of the seminar fees will be due. Upon any later cancellation or in the event of no-show the full fees become due. Upon trainings over durations of several months a cancellation period arises of 4 weeks until the end of the month.

### **§ 4 Cancellation on behalf of Lutz & Grub AG**

Confirmation of the registration does not lead to entitlement with respect to enforcement of the seminar. Upon insufficient participation or unforeseen impediments Lutz & Grub AG cannot be held responsible for, Lutz & Grub AG may cancel seminars up to one week prior to the beginning of the seminar. In justified exceptions (e.g. upon indisposition of the trainer or upon force majeure) cancellation may occur on short notice. Lutz & Grub AG immediately undertakes to supply a substitution date on this behalf.

Upon cancellation initiated by Lutz & Grub AG any seminar fees already transferred shall be reimbursed fully; additional entitlements arising from non-productive time, travel or accommodation expenses etc. shall not arise.

### **§ 5 Terms of Payment**

Legal value added tax have to be added to all fees. Payments shall be transferred to the bank account of Lutz & Grub AG at Raiffeisen- und Volksbank Dahn e.G. (bank identification code 542 912 00), account number 529 109. Invoicing takes place on the first day of the seminar. Invoices shall be payable without deduction within 14 days upon invoicing. Apart from that all legal provisions shall apply with respect to valid general payment transactions.

### **§ 6 Reclamations, Liability, Compensation**

Generally reclamations have to be stipulated in written form within 14 calendar days upon provision of the service. In the event of justified entitlement Lutz & Grub AG chooses to either correct the invoice total deducting the sub-par performance or to initiate a free-of-charge remedy within an appropriate period of time. Even though the selection and compilation of training hand-outs and documentations take place with outmost accuracy faults may not be fully excluded. There shall be no liability for defaulting content and any consequences thereof. Lutz & Grub AG shall not be liable for the correctness of content, questions and answers upon certification exams. In the event of accidents Lutz & Grub AG shall be liable within the framework of legal provisions. There shall be no liability for the loss of any valuables or other items.

### **§ 7 Software and Teaching Materials**

Lutz & Grub AG reserves all rights, including the rights of translation, re-print and copying of all teaching materials or parts thereof. No part of the teaching materials, hand-

outs or documentations may be reproduced or published without written authorization on behalf of Lutz & Grub AG, not even for teaching purposes, especially where electronic means are concerned. If teaching materials, media or software products on behalf of third parties are being used within the framework of trainings and seminars the participants undertake to mind the relevant applicable licenses and undertake to refrain from or even attempting to copying. The ordering party alone shall be liable and in sole responsibility in the event of violation, especially concerning any rights of third parties thereof. The ordering party shall release Lutz & Grub AG from all rights of third parties within the framework of such violations of law.

### **§ 8 Data Safety and Virus Protection**

If a customer is subject to the personal scope of protection of the Federal Data Protection Act, he approves any data processing if necessary for the proper performance of the seminar.

Data processing media taken along by the participants shall only be used on the seminar's equipment and transferred to the server upon explicit authorization on behalf of Lutz & Grub AG. The participant shall be liable for any damages thereof.

### **§ 9 Confidentiality**

Lutz & Grub AG undertakes to treat all information on participants or on internal matters – of any nature whatever – on behalf of the ordering party as confidential.

### **§ 10 Subsidiary Agreements**

Subsidiary agreements require written form in order to execute their effectiveness.

### **§ 11 Place of Fulfillment and Jurisdiction**

Place of fulfillment and jurisdiction for both contractual parts shall be Karlsruhe – to the extent allowed by law.

### **§ 12 Miscellaneous**

Any ineffectiveness of individual provisions shall not have an impact on the effectiveness of the prevailing general terms and conditions *ceteris paribus*.

Karlsruhe, July 21, 2007