

d'accord broadcasting solutions GmbH General Terms and Conditions

As of: Nov 2005

Section A General Terms

These General Terms and Conditions pertain to the following types of contract:

- Services or custom software development
- Software service, maintenance, and hotline agreements
- Supply of hardware and/or software

The following General Terms and Conditions apply to various types of contract as appropriate. Should the Parties agree to provisions which do not fall under any of the aforementioned types of contract, such provisions shall be regarded as legally independent, also when they are included in the contractual agreements between the Parties. The following General Terms and Conditions do not apply to such agreements.

§ 1 Applicability

These terms and conditions apply between D'accord broadcasting solutions gmbh – hereinafter referred to as d'accord broadcasting solutions gmbh – and the Client. They represent the only contractual basis for all – including future – business dealings, in their applicable form. These Terms and Conditions hereby supersede any and all general terms and conditions brought forth by the Client. Consequentially, d'accord broadcasting solutions gmbh is not obligated to register objection to any contradictory terms and conditions on the part of the Client.

§ 2 Liability

2.1. d'accord broadcasting solutions gmbh is liable for damages above and beyond the express warranty, without limitation on the amount of damages, only for those damages which occur through intent or gross negligence on the part of a legal representative or executive of d'accord broadcasting solutions gmbh or through serious organizational deficiencies,

- a) with limitation to damages which are typical and foreseeable on the basis of the contractually agreed-upon use of the contract software,
- i) for damages resulting from the demonstrable breach of significant contractual responsibilities,
- ii) for damages caused by agents of d'accord broadcasting solutions gmbh which are intentional or the result of gross negligence without the breach of significant contractual responsibilities,
- iii) to the extent they are due to impossibility or its initial inability to perform.

b) Liability for minor negligence (such as for consequential damage) is limited to an amount not to exceed half of the contractually agreed-upon compensation.

2.2. Partial responsibility on the part of the Client (such as through insufficient data security precautions) is to be taken into account.

2.3. Liability for failure to deliver a guaranteed functionality due to fraud, and for personal damages, remains unaffected.

2.4. Partial responsibility on the part of the Client, such as that caused by insufficient production of cooperative aid, organizational deficiencies or insufficient data security precautions, is to be taken into account. d'accord broadcasting solutions gmbh assumes liability for data recovery, inasmuch as the Client took all standard and reasonable precautions for data security, and the Client assures that the data originated from data material that exists in machine-readable form which can be reconstructed with reasonable effort.

2.5. The Client is required to report any and all damages, such as they pertain to the aforementioned limitations of liability, fully and immediately in writing to d'accord broadcasting solutions gmbh, so that d'accord broadcasting solutions gmbh is informed at the earliest possible point in time and can, together with the Client when required, minimize the possibility for further damage.

2.6. If maintenance services to be performed by d'accord broadcasting solutions gmbh are covered under the contract between the Parties, the following applies: d'accord broadcasting solutions gmbh is not liable when service and maintenance cannot be performed at the agreed-upon date, or the beginning of a service and maintenance period is significantly delayed, due to circumstances beyond the control of d'accord broadcasting solutions gmbh.

§ 3 Secrecy, Retention, Protection of the Privacy of Personal Data

i) Inasmuch as the protection of the privacy of personal data is mentioned in the contract between the Parties, the following provisions apply:

ii) Both Parties agree to assume the obligation to identify those persons participating in the project and assure that

these persons are aware of and adhere to regulations for the protection of the privacy of personal data. d'accord broadcasting solutions gmbh will require that its employees are bound by regulations for data secrecy.

b) The Client shall, in a timely fashion, designate and mark those documents for which d'accord broadcasting solutions gmbh should exercise extraordinary security or protection measures.

c) In general, d'accord broadcasting solutions gmbh does not wish to learn of company secrets or sensitive information. Inasmuch as d'accord broadcasting solutions gmbh must be made aware of sensitive or secret information from the Client in order to deliver agreed-upon services, the Client shall clearly and unambiguously designate for d'accord broadcasting solutions gmbh information which the Client considers to be of a secret or sensitive nature.

d) Respectively, d'accord broadcasting solutions gmbh agrees to handle such information with the appropriate care and confidentiality.

3.2. The Client receives usage rights in accordance with the agreed-upon usage conditions for the programs and documentation delivered by d'accord broadcasting solutions gmbh, within the scope of the service and maintenance agreement, with the delivery of contracted software in accordance with the basic contract conditions, inasmuch as no special usage conditions have been included.

3.3. Furthermore, the Client is responsible for compliance with all laws and regulations pertaining to the protection of the privacy of personal data and data security.

3.4. d'accord broadcasting solutions gmbh will inform the Client in writing as to the nature and scope of the processing and use of Client data required for the performance of software service and maintenance, as well as the necessary technical and organizational procedures to be followed for the security of said data. The Client will issue d'accord broadcasting solutions gmbh appropriate instructions for this purpose. d'accord broadcasting solutions gmbh will process or use the Client's data only in accordance with said instructions. Otherwise, d'accord broadcasting solutions gmbh is freed from their service obligation.

3.5. The Client agrees to perform regularly scheduled data security procedures. Data security procedures pertain to the entire software system

and include the regularly scheduled back-up of basic and variable data, and is to be conducted in accordance with accepted standards of data processing.

§ 4 Payment

4.1. The Client is to pay d'accord broadcasting solutions gmbh the amount set forth in d'accord broadcasting solutions gmbh's acknowledgement of the order.

4.2. Additional services provided by d'accord broadcasting solutions gmbh (such as supplements and changes requested by the Client) are to be paid by the Client in accordance with the current d'accord broadcasting solutions gmbh price list.

4.3. Services are generally performed on the premises of d'accord broadcasting solutions gmbh. The cost for travel by d'accord broadcasting solutions gmbh employees required by or at the request of the Client to their premises, or any other location designated by the Client, are to be reimbursed to d'accord broadcasting solutions gmbh, including time, travel expenses and per diem charges. Thereby, travel time will also be reimbursed to d'accord broadcasting solutions gmbh by the Client. The necessity of individual trips will be agreed-upon between the Parties.

4.4. Payment Schedule

a) Insofar a service or software development is the subject of the contract, the following applies:

Payment is due in accordance with progress of the project. If a fixed price is agreed-upon, the total project fee is divided by the duration of the project in months, the resulting amount being the monthly payment to be remitted by the Client prior to or no later than the 10th day of the following month. In the event that the Client's payment is overdue, the Parties agree to the following: §§ 288 BGB, 352 HGB notwithstanding, interest in the amount of 8 % above the current discount rate of the Deutschen Bundesbank is due.

b) Insofar software service, maintenance or hotline agreements are the subject of the contract between the Parties, the following applies:

The amount of the annual service payment is noted in the software service certificate.

The resulting monthly fees are calculated for 12 months in advance with payment due in advance upon receipt of the invoice.

d'accord broadcasting solutions gmbh reserves the right to adjust the monthly fee in accordance with changes in cost factors

with an advance notification of three months. By an increase in maintenance of more than 7.5% within 12 months of the previous deadline, the Client is permitted to cancel the contract, upon observing a notification period of one month to the end of the month in which the increased rate is to take effect.

c) For other purchase contracts between the Parties, the following applies:

The price valid on delivery is binding, unless an additional written price agreement is executed. The invoice amount is due no later than four weeks after delivery.

4.5. All amounts payable to d'accord broadcasting solutions gmbh are inclusive of all applicable VAT. All payment expenses like bank fees have to be paid by the Client.

4.6. In the event that the Client's payment is not remitted by the 10th of the month, the Parties agree to the following: §§ 288 BGB, 352 HGB notwithstanding, interest in the amount of 8 % above the current discount rate of the Deutschen Bundesbank is due.

§ 5 Contract Duration/ Termination

The contractual relationship of the Parties in accordance with §§ 631 ff. BGB (software development) ends with the acceptance of the software. It can, nonetheless, be terminated in writing with a notification period of eight weeks, when business practices of the Client require such. In this case the payment schedule to d'accord broadcasting solutions gmbh is affected as follows:

All additional services to be provided by d'accord broadcasting solutions gmbh up until the end of the contract are to be paid in full. Payment for the contracted services no longer to be provided as a result of the early termination of the contract is waived inasmuch as d'accord broadcasting solutions gmbh is able to realize cost savings and/or is able to otherwise recover costs by utilizing the free resources for other purposes, or willfully declines to recover costs.

5.1. Maintenance, software service and hotline agreements are concluded for unlimited periods of time.

5.2. When no begin date is noted in the service certificate, the contract begins with the acceptance of the software. The contract may be terminated by either Party by observing a notification period of three months of the end of the year. The right to termination without

notification for cause remains unaffected. d'accord broadcasting solutions gmbh has the

right to immediate termination when fee payments are more than one month overdue.

Termination must be made in writing by registered mail.

§ 6 Other matters

The aforementioned and following General Terms and Conditions represent the entirely agreement between the Parties. Contradictory and/or supplemental terms or conditions, as well as modifications to these terms and conditions, including this clause, apply only when contained within a written instrument signed by both Parties. Oral or implied understandings between the Parties are not enforceable.

The Client is not entitled to enforce a lien against d'accord broadcasting solutions gmbh on behalf of a third party which is not participatory to this contract. The Client can only compensate d'accord broadcasting solutions gmbh with such claims insofar as they are indisputable or legally binding.

If one or more terms or conditions of this contract are rendered void, the validity of the remainder of the contract is not affected. The Parties agree to replace any voided terms or conditions with enforceable terms which effectively fulfill the economic purpose of the voided terms. Until such an agreement is reached, temporary terms which most closely approximate the economic purpose of the voided terms shall be in effect. The same is true for the omission of any substantive provisions of the agreement. The transfer of any rights or obligations arising from this contract requires the consent of d'accord broadcasting solutions gmbh.

The place of performance for any and all provisions of this contract, including those of suppliers to d'accord broadcasting solutions gmbh, is the premises of d'accord broadcasting solutions gmbh.

The agreement shall be interpreted and construed in accordance with the laws in effect at the premises of d'accord broadcasting solutions gmbh, which also determines the jurisdiction for resolving any dispute pertaining to this agreement.

Section B Services and Software Development Agreement

§ 7 Object of the Contract

d'accord broadcasting solutions gmbh develops software and performs services on the basis of detailed technical specifications provided by the Client, in advance, in the form of a specification catalogue. The specifications shall describe faithfully, completely and exhaustively all services to be provided by d'accord broadcasting solutions gmbh.

In accordance with this agreement, all effort required to determine and obtain the necessary technical specifications, as well as any training required, are not the responsibility of d'accord broadcasting solutions gmbh. Such additional services may be provided by d'accord broadcasting solutions gmbh in exchange for additional compensation by special agreement. The provision of such services is to be construed as legally independent of this agreement.

§ 8 Performance of Services and Modification of Specifications

8.1. Deadlines

Deadlines shall be set by mutual written agreement between the Parties and are only binding as such. All delivery deadlines are rendered non-binding when the Client fails to fulfill all participatory responsibilities in full or in a timely fashion.

8.2. Evaluation of the technical specifications

Should d'accord broadcasting solutions gmbh determine that technical specifications are in error, incomplete, objectively non-executable, or not clearly stated, d'accord broadcasting solutions gmbh shall inform the Client of such a determination without delay. The Client shall assume the responsibility to correct or modify the specifications within an appropriate period of time.

8.3. Consequences of insufficient specification

d'accord broadcasting solutions gmbh shall be additionally compensated by the Client for any delays or increased cost due to insufficient definition of the specifications. All deadlines or notification periods are rendered void as a result of all but the most minimal delays or the need for additional effort caused by such deficits.

Delays or additional effort caused by the need for analysis or corrective work pertaining to the specifications, and/or their modification, can

cause or result in the need for additional work or modification to the project itself.

§ 9 Modifications and Service Provision

9.1. Examination

In the event modifications or supplemental services are desired, the Client must present d'accord broadcasting solutions gmbh with a formal request for examination which requires the payment of an additional fee. d'accord broadcasting solutions gmbh then has the option of suspending all further project-related work in the event project-related resources are required to execute the examination, or it is to be reasonably assumed that such an agreement on modification or alteration of the project would render further project-related work superfluous.

d'accord broadcasting solutions gmbh will inform the Client as to the results of the examination and – insofar as such is prudent – the terms and conditions of the realization of modifications.

The Client shall immediately inform d'accord broadcasting solutions gmbh if such conditions are acceptable. In the event the Client rejects the modified conditions, the original agreement for the provision of services remains in effect.

Should the Parties – for any reason - fail to agree on the inclusion of any modification or supplemental service requested by the Client, the Client shall not infer any additional or special rights as a result.

9.2. Effect on Deadlines and Notification Periods

In the event of a process in accordance with Section B § 8 Paragraph 8.2 and § 9 Paragraph

9.1 it is possible the agreed-upon deadlines and notification periods become void. In the event that modifications effect such contractual provisions, the Parties shall execute a written modification of these provisions, in particular, the agreement as to compensation. Should such a written instrument not be executed, however the modification wishes of the Client realized, an additional and appropriate fixed compensation in accordance with §§ 612, 632 BGB shall take effect, which in essentially means that the standard rates charged by d'accord broadcasting solutions gmbh take effect.

9.3. Alternative Assignment of Employees

In the event that project activities are suspended as required by d'accord broadcasting solutions gmbh or at the wish of the Client, and employees assigned to the

project cannot be otherwise put to effective use, the Client is required to compensate d'accord broadcasting solutions gmbh at a rate equal to 75% of their standard rate for the duration of project suspension.

§ 10 Rights Granted, Source Code

10.1. Usage and commercialization rights

When not otherwise stated by special written agreement, the Client is granted non-exclusive rights to usage and commercialization of the software provided by d'accord broadcasting solutions gmbh, including processing, duplication and distribution rights. In the event exclusive rights are granted, these do not pertain to previously developed d'accord broadcasting solutions gmbh standard modules included in the project software.

10.2. Source code

When so desired, the Client may obtain the source code for the individually developed software components, though generally not until after expiration of the guarantee period.

§ 11 Project Organization, Participation of the Client

11.1. Release of Project Milestones

11.2. If the Parties have agreed upon project milestones or comparable partial delivery points within the scope of the project, especially in the form of a project schedule, the Client is required to immediately evaluate work completed by d'accord broadcasting solutions gmbh at such milestones, and to release d'accord broadcasting solutions gmbh to continue further project-related work within a period of one week.

The Parties are to mutually agree on the conditions for release of such partial product deliveries.

In the case of services, insofar as no other agreement exists, the delivery of services is to be deemed without faults at months-end inasmuch as the Client does not register a complaint within two weeks.

11.3. Contact person

At contract signing, each Party shall specifically designate a contact person and a substitute whose responsibility shall expressly be either

to act as the official point of contact for the exchange of project-relevant information, or to

possess the authority and right to act legally in the communication or acceptance of project-relevant declarations of intent on behalf of the respective Party.

In the case whereby the Client is obligated to participate in the project, these efforts will be

coordinated through the Client's own contact person, and d'accord broadcasting solutions gmbh will officially request necessary Client participation through such contact person.

The contact person is required to communicate information, and to reach and/or request decisions, respectively, without delay so that optimal progress of the project is realized.

11.4. Required information, documentation, etc.

The Client shall provide, without delay, d'accord broadcasting solutions gmbh with all documentation and information, as well as any space, personnel and/or equipment, necessary for completion of the project. The Parties will, on a case-by-case basis, mutually agree on the time-point at which the Client is to provide such. The extent of such is determined in accordance with the scope of the services to be provided by d'accord broadcasting solutions gmbh.

d'accord broadcasting solutions gmbh is required to request such from the Client at the earliest possible time-point, in general three working days in advance, unless otherwise agreed-upon in the project schedule.

11.5. Test data

The customer is obligated to make a test facility available, in a timely fashion, which meets the requirements of the scope, structure and form of the application to be provided by d'accord broadcasting solutions gmbh.

Details pertaining to the exact characteristics and scope of the test facility can be provided by d'accord broadcasting solutions gmbh in the event that both Parties have not mutually agreed on such.

11.6. Requirements for implementation

Inasmuch as it is not contained within the agreement between the Parties, the Client is obligated to provide, in a timely fashion, the required environment for the installation and/or operation of the software to be provided by d'accord broadcasting solutions

gmbh, especially the necessary operating system, database, telecommunications and service software (tools) in the most current or required version, as needed, as well as other necessary software. The Client is responsible for securing the necessary usage rights.

Also, the service, especially updating, of the software made available by the Client is the responsibility of the Client.

§ 12 Test phase, operational readiness

d'accord broadcasting solutions gmbh shall inform the Client, as to the time-point when the software enters the test phase, insofar as this has not already been accomplished in another manner (such as through tests, or similar means). The Client is obligated to allow tests to be conducted on their own computer system, or on the machine on which the software is to eventually run, and shall make appropriate personnel and space available for the test in a timely fashion.

Further requirements for Client participation are addressed in §5.

Following successful testing, d'accord broadcasting solutions gmbh will inform the Client as to operational readiness of the software.

§ 13 Acceptance

13.1. Acceptance test

Following the determination of operational readiness in accordance with Section B § 12 Paragraph 3, the Client shall, without delay, undertake to conduct an acceptance test and assure agreement with the technical specifications.

13.2. Definition of criteria

The Parties agree to make every effort, either at contract signing or during the course of software development, to reach mutual agreement as to the criteria to be applied in an acceptance test and to a joint procedure for conducting such a test. If such an agreement can not be found, only defects which lead the whole system to a fatal error shall be issued to foil the acceptance.

13.3. Statement of acceptance

Should the product delivered by d'accord broadcasting solutions gmbh be in agreement with the technical specifications, and any expressly agreed-upon modifications and

supplements, the Client shall issue a statement of acceptance without delay.

13.4. Understood acceptance

Should the Client fail to issue a statement of acceptance within four weeks of the declaration of

operational readiness by d'accord broadcasting solutions gmbh, and furthermore, should the Client have failed to inform d'accord broadcasting solutions gmbh of any significant deficiencies or does the Client use the product in the sense of the technical specification, then the product delivered by d'accord broadcasting solutions gmbh is understood to be accepted without defect.

13.5. Elimination of defects

Should defects become apparent during the acceptance test conducted by the Client, d'accord broadcasting solutions gmbh agrees to eliminate such defects within an acceptable period of time.

§ 14 Guarantee

14.1. Commencement

The guarantee period begins concurrent with acceptance of the product. Additionally, the guarantee period begins immediately should the Client begin to use the product and register no significant complaint within four weeks.

14.2. Duration

The guarantee period is 12 months, unless the Parties have expressly agreed upon other terms.

14.3. Defects reported upon acceptance

Should defects be registered during the acceptance of the product, d'accord broadcasting solutions gmbh agrees to eliminate such immediately or within an appropriate period of time.

14.4. Reported defects

Additionally, d'accord broadcasting solutions gmbh shall undertake to eliminate defects within an appropriate period of time, whereby such defects must be reported in writing and include a description of the circumstances under which such defects occurred, the software and hardware environment under which such defects occurred, as well as the effect of such defects.

14.5. Participation of the Client

The Client shall provide support to d'accord broadcasting solutions gmbh in the detection of defects and in the elimination of defects, and shall, furthermore, provide immediate access to appropriate records from which

information may be obtained as to the cause of such defects.

14.6. Failure of repairs, extension

Should d'accord broadcasting solutions gmbh fail to eliminate reported defects within an appropriate period of time, thereby a maximum of 100 days, and further should d'accord broadcasting solutions gmbh fail to eliminate the defect within an extension granted by the Client, then the Client may make use of his statutory guarantee rights.

14.7. Lapse of guarantee

The Client can no longer invoke provisions of the guarantee when he or a third party have

made any alterations in the software without prior written consent from d'accord broadcasting solutions gmbh, unless the Client can show that such changes do not or only minimally affect any guarantee-related procedures conducted by d'accord broadcasting solutions gmbh, especially analysis and defect elimination, and that such changes are not the cause of said defect.

14.8. Costs for false defect reporting

The Client shall compensate d'accord broadcasting solutions gmbh for all time and costs associated with defects whereby d'accord broadcasting solutions gmbh is shown not to be at fault (specifically travel expenses in accordance with standard rates).

Section C

Software Service, Maintenance and Hotline Agreements

§ 15 Object of the Contract

The object of this agreement is the service and maintenance of d'accord broadcasting solutions gmbh Software licensed for use by the Client, as well as customer support during transfer of the software.

d'accord broadcasting solutions gmbh provides service for the software (contract software) listed in the software service certificate, which is component of the contract. The following are noted in the service certificate: the date on which the contract takes effect, the hardware and software environment, especially the operating system, the data medium, as well as current fee schedule and the contact persons designated by each Party.

§ 16 Definitions

16.1. The following expressions are used in this agreement as defined below:

a) "Enhancement Release": Denotes an improved contract software, possibly containing minimal supplements. Such is designated by the addition of one to the first digit after the decimal of the applicable program module, for example from 5.0 to 5.1.

b) "Maintenance Release": Contract software which has been modified strictly for the purpose of defect elimination. Such is designated by the addition of one to the second digit after the decimal of the applicable program module, for example from 5.0 to 5.01.

c) "Major Release": Significant alterations and expanded functionality of contract software. Such is designated by the addition of one to the first digit before the decimal of the applicable program module, for example from 5.0 to 6.0.

d) "Update": Change from an older to newer Release of the same product on the same platform. Maintenance Releases and Enhancement Releases are designated as Updates.

e) "Upgrade": Change from an older to newer Release of the same product on the same platform. Major Releases are designated as Upgrades.

f) "Trade Up": Change of operating system and/or hardware, as well as a change in the license regarding the number of installations.

§ 17 Extent of Services

17.1. Insofar as no other conditions are noted in the software service certificate, d'accord broadcasting solutions gmbh shall provide the following services for the software noted in the service certificate:

a) Software service
d'accord broadcasting solutions gmbh provides the Client with the latest version of contract software in the form of Updates on the agreed-upon data medium following general release by d'accord broadcasting solutions gmbh.

b) Maintenance
d'accord broadcasting solutions gmbh provides maintenance services, which may also be performed on the premises of the Client. The Client shall assure that a qualified employee of the Client is available for support for the duration of the maintenance work.

c) Hotline
The Client shall designate two contact persons for the utilization of the Hotline. d'accord broadcasting solutions gmbh provides advice and support via telephone during normal business hours for unambiguously described difficulties with software usage, so that minor errors can be

corrected or sufficiently bypassed by the Client (Hotline service). d'accord broadcasting solutions gmbh also provides answers to questions which are not the result of errors in the contract software, rather occur as a result of utilization errors on the part of the Client.

17.2. The following services are expressly exempt from inclusion in the extent of service provided by the contract. These services are to be defined and compensation agreed-upon in a separate instrument.

- a) Upgrades
- b) New modules

Delivery of new modules which are brought to the market by d'accord broadcasting solutions gmbh following transfer of the contract software.

- c) Installation

Support for the Client in installation of the software delivered by d'accord broadcasting solutions gmbh, as well as the performance of introductory and more advanced training courses.

- d) Transport and travel expenses

Costs incurred by d'accord broadcasting solutions gmbh for transportation and travel.

§ 18 Participation of the Client

18.1. Latest Version

The obligation of d'accord broadcasting solutions gmbh to provide contractually defined service pertains to the latest release version and the release version immediately preceding such.

Should the Client have an older version of the contract software installed, d'accord broadcasting solutions gmbh may refuse to provide service under such conditions, or at the discretion of d'accord broadcasting solutions gmbh or the Client may provide service for an additional fee to cover the

additional service required, unless installation of the latest version is deemed unreasonable. The Client shall consistently, and without delay, install new programs as they are delivered by d'accord broadcasting solutions

gmbh, and examine such for possible defects. In the event acceptance of the latest release is unreasonable, the Client is permitted to maintain the previous release.

The Client is obliged to utilize the latest release, insofar as it is reasonable for the Client, and inasmuch as such is free of all but minor defects, and insofar as d'accord broadcasting solutions gmbh is able to rapidly eliminate other defects. Otherwise, the Client is permitted to utilize an earlier version of the contract software until such time as d'accord broadcasting solutions gmbh is able to provide a defect-free new release.

18.2. Lapse of service obligation

Software which has been altered by the Client or a third party is only subject to this service agreement when and inasmuch as d'accord broadcasting solutions gmbh consented in writing to such changes and the corresponding alteration of the software service contract.

18.3. Services free of charge

a) The Client assures that all participation on his part, as required for the performance of service by d'accord broadcasting solutions gmbh, is made available in a timely fashion and free of charge for d'accord broadcasting solutions gmbh by the Client or his agent, such as, for example, employee information, operations logbook, protocols, hardcopies, tests, test data, computer capacity, possibility for monitoring, removal of data and unrelated programs.

b) In the event that d'accord broadcasting solutions gmbh provides telecommunications services, the Client is obliged to maintain and make available appropriate equipment and programs at no cost to d'accord broadcasting solutions gmbh.

18.4. Qualification of participation

The obligation to participation is an important obligation on the part of the Client. In the event the Client fails to provide the required participatory services in a timely fashion or to the required degree, d'accord broadcasting solutions gmbh is released from their obligation to perform service.

18.5. Procedure for the elimination of defects

In the event a defect is reported, the Client is obliged to provide all necessary documentation and information required by d'accord broadcasting solutions gmbh to perform diagnosis and elimination of the defect, as well as access to spaces,

equipment and the contract software on the premises of the Client, at least during normal business hours.

The Client shall, to the best of their ability, assist d'accord broadcasting solutions gmbh in the effort to localize the cause of the defect. The Client shall make the defective software available to d'accord broadcasting solutions gmbh, and, as required, immediately transfer such software to d'accord broadcasting solutions gmbh.

The Client shall make the contract software, and, as required, competent personnel and computer time available to d'accord

broadcasting solutions gmbh, when d'accord broadcasting solutions gmbh executes the service on the premises of the Client. The Client shall assure that the designated employees of d'accord broadcasting solutions gmbh have access at agreed-upon times to computers and software for the purpose of performing software service.

18.6. Installation of new versions

Should the Client receive a new version of the contract software from d'accord broadcasting solutions gmbh, he is required to install such without delay.

§ 19 Suspension of service

Maintenance is suspended for:

- Software problems which occur as the result of a change in the utilization conditions on the part of the Client, such that the original conditions under which the contract software was delivered no longer apply. Such changes pertain especially to hardware, operating systems, and the use of additional software;
- Alterations or modifications made to the contract software, or when combination or connection of the contract software with other software is made, unless such is permitted in the software end-user license contract, or not the cause of the software problem;
- Products which are not registered with d'accord broadcasting solutions gmbh;
- Software problems which occur as the result of negligence, or otherwise are the result of actions of the licensee;
- Contract products which are used by the licensee on a computer system other than that specified in the installation protocol, even when compatibility is taken into account.

Section D

Hardware and Software Delivery Agreement

§ 20 Object of the Contract

d'accord broadcasting solutions gmbh provides the Client with computer hardware and software developed in-house, as well as such developed by third parties, in accordance with the following conditions.

The contracts between the Parties are purchase contracts. The reciprocal contractual responsibilities result exclusively from the following conditions, and are not subject to financing agreements on the part of the Client which may have been made with third parties. In particular,

the payment obligations of the Client are to be met in full.

The characteristics and utilization conditions for the product result from the functional description, or the technical release or specification from the respective manufacturer, which is to be communicated to the Client prior to contract negotiation. Additional details of the characteristics and the utilization

conditions are contained within the product documentation. An assurance of compliance with § 459 II BGB is only guaranteed inasmuch as such a guarantee is communicated in writing by d'accord broadcasting solutions gmbh. The production of copies of the documentation and the software, as well as the technical description is permitted only with the express written permission of d'accord broadcasting solutions gmbh. Installation of the product is performed by the Client, who is permitted to engage a third party for this purpose. d'accord broadcasting solutions gmbh is prepared to provide instruction to the Client in the functionality and use of the product in exchange for compensation in accordance with the current d'accord broadcasting solutions gmbh price list for such services. The conditions for such training are to be agreed upon in a separate instrument.

d'accord broadcasting solutions gmbh provides the product to the Client together with the documentation provided by the respective manufacturer. The individual pieces of equipment included in the contract hardware, as well as the software and other items are listed in the order form as confirmed by d'accord broadcasting solutions gmbh. The Client retains ownership of the product and the associated documentation only after payment of the full purchase price.

§ 21 Shipment and Assignment of Risk

d'accord broadcasting solutions gmbh, or a third party designated by d'accord broadcasting solutions gmbh, shall ship the product at the cost and risk of the Client to the address of the Client as noted on the order form/contract document. Only when specially agreed to and duly noted by the Parties will the shipment be made to an other address (delivery address). Upon delivery of the product to the transporter/shipper, risk is transferred to the

Client (in accordance with 447 BGB). Delivery deadlines shall be specifically confirmed by d'accord broadcasting solutions gmbh, or agreed to in writing by the Parties as noted in the order form or other contractual agreement, and only in this case become binding.

In the event of a delay in delivery of the product, the Client may only be released from the contract after expiration of an extension of six weeks imposed on d'accord broadcasting solutions gmbh in writing. Partial delivery and corresponding partial invoicing is permitted. d'accord broadcasting

solutions gmbh is not required to provide insurance. Should shipment be delayed at the request of the Client, risk is transferred to the Client for the duration of the delay beginning with the day of readiness for shipment. In this case, the risk of damage, transportation damage, theft, fire and water damage, etc. is transferred to the Client.

§ 22 Participation of the Client

Immediately upon receipt, the Client is required to examine the product and determine its full functionality. The Client shall report any defects in the product immediately to d'accord broadcasting solutions gmbh, preferentially in writing, and will deliver a written damage report when requested to do so by d'accord broadcasting solutions gmbh. Should service on the product be required to be performed by the transporter, or his agents, which may

include the manufacturer, in order to eliminate any defects, the Client will permit unhindered

access by such personnel to the premises and the product, the necessary documentation, such as error protocols or logbooks, as well as make available suitable premises, equipment, computer time, and personnel in a timely fashion and to a sufficient extent.

§ 23 Licenses

Insofar that software is the object of the purchase contract, software licenses are subject to the following. A License is defined as one installation of a software-module on one computer. Licenses are granted specifically to the Client and are not transferable. In general, only simple unlimited usage rights are granted. Extension of the licenses, such as in the number of users, clients or service licenses, whereby the Client is acting on behalf of other firms, require special express consent.

§ 24 Guarantee

d'accord broadcasting solutions gmbh is liable for defects present upon transfer of the product to the transporter for the duration of the statutory guarantee limitation of 12 months. Should the manufacturer of the product provide a generally dependent guarantee, d'accord broadcasting solutions gmbh will transfer such to the Client. The Client shall immediately sign and return to d'accord broadcasting solutions gmbh any guarantee card included with the product. In order to preserve any manufacturer's guarantee, the Client shall immediately inform d'accord broadcasting solutions gmbh of the detection of any defect or deficit in accordance with the conditions of said manufacturer's guarantee. Delayed reporting of any guarantee claim on the part of the Client is his responsibility.

d'accord broadcasting solutions gmbh is liable for defects which more than minimally affect or preclude the use of the product for the standard or contractually agreed-upon purpose, or more than minimally reduce the value of the product. d'accord broadcasting solutions gmbh is not liable for installation or usage errors, or for insufficient data security on the part of the Client. Should a defect be discovered by the Client, he is required to immediately inform d'accord broadcasting solutions gmbh, preferably in writing, and upon subsequent request, in writing, thereby describing to the best of his ability the circumstances under which the defect was detected, a description of the defect and the effect of the defect. In the event the Client cannot reproduce the defect for the benefit of analysis by d'accord broadcasting

solutions gmbh, the Client will afford d'accord broadcasting solutions gmbh the opportunity to observe the device itself. Insofar as is practical, the product will remain with the Client, though the Client shall tolerate the use of monitoring software by d'accord broadcasting solutions gmbh for the purpose of establishing a protocol of performance, even when such shall affect the performance of the entire system to a greater or lesser degree.

In the event of the occurrence of a defect reported by the Client, d'accord broadcasting solutions gmbh will, to the best of its ability, endeavor to perform analysis and elimination of the defect. In the case of a reported

defect, d'accord broadcasting solutions gmbh is permitted to eliminate said defect by the replacement of an appropriate component, group of components, or entire piece of equipment. In the event that d'accord broadcasting solutions gmbh is not able to eliminate the defect within an appropriate period of time, and should such efforts remain fruitless after an extension granted by the Client, the Client is permitted to reduce the purchase price accordingly, or at his discretion, rescind the contract retroactively.

The guarantee is rendered void in the event the Client or a third party alters the product without the express written consent of d'accord broadcasting solutions gmbh. This does not apply when the Client can

show that the alteration is in no way related to the defect or error, and the analysis and elimination of the defect is not significantly hindered by the alteration. As an alternative to the refusal to correct the defect or honor the guarantee, d'accord broadcasting solutions gmbh can become active despite such alterations, thereby invoking provisions for hindrance of service which carry with them the requirement for compensation of additional effort. The guarantee on the part of d'accord broadcasting solutions gmbh is also rendered void when the Client endeavors to use the product in an environment or with components which are other than those which have been approved for use with the product. The

provisions for release in accordance with the previous clause are also generally valid here.