

## General Terms and Conditions of science + computing AG (including licence and maintenance conditions)

### § 1 Binding nature of these terms and conditions

- (1) All offers, deliveries of hardware and software as well as the provision of services - hereinafter collectively referred to as "SERVICE/S" - of science + computing AG - hereinafter referred to as "s+c" - are exclusively based on these General Terms and Conditions. These shall also apply to all future business relations, even if they are not expressly agreed again. At the latest with the use of the agreed SERVICE, the request for a permanent licence key for the software licensed by s+c or software licensed by a third party ("Licensor"), which s+c justifiably sublicenses to the CONTRACTUAL PARTNER (hereinafter collectively referred to as "scSoftware") or with the conclusion of a maintenance contract, these terms and conditions shall be deemed accepted in commercial transactions.
- (2) Any existing terms and conditions of the CONTRACTUAL PARTNER that deviate from these terms and conditions are hereby expressly rejected, unless there is a written agreement between the contractual parties regarding the deviation in question.

### § 2 Offer and conclusion of contract

The CONTRACTUAL PARTNER shall receive a service offer from s+c concerning the SERVICE desired by him. In case of agreement the CONTRACTUAL PARTNER accepts this offer.

### § 3 Services

- (1) The scope of the individual SERVICE/S results from the contract itself, the offer as well as from the other service descriptions, e.g. brochures.
- (2) Changes in content and/or organization or deviations from the described SERVICE may be made before or during the performance of the SERVICE/S, provided that these changes or deviations do not change the essence of the SERVICE/S.
- (3) Delivery dates are in principle non-binding and are only to be understood as approximate information unless they have been expressly promised in writing as "binding" by s+c.
- (4) s+c shall be entitled to partial delivery.
- (5) s+c is entitled to use subcontractors in the provision of the SERVICE/S.

### § 4 Licence agreement

- (1) s+c grants the CONTRACTUAL PARTNER a simple and non-transferable right to use the scSoftware including any additional programs and associated material either for a specific or for an indefinite period of time for a contractually specified number of computers ("licence"). The scSoftware may only be installed and

used simultaneously on the number of computers for which a licence exists.

- (2) The licence agreement on scSoftware does not include upgrades or updates; these may, however, be the subject of a separate maintenance agreement.
- (3) The scSoftware provided to the CONTRACTUAL PARTNER, including the entire documentation and all copies made by the CONTRACTUAL PARTNER, shall remain the property of s+c or of the licensor. s+c or the licensor shall remain the owner of all rights to the scSoftware including the respective associated material, even if the CONTRACTUAL PARTNER modifies it or combines it with its own programs or those of a third party, unless the CONTRACTUAL PARTNER is explicitly granted rights thereto. In the event of modifications or connections of the scSoftware as well as in the event of the creation of copies, the CONTRACTUAL PARTNER undertakes to affix a corresponding copyright notice.
- (4) The CONTRACTUAL PARTNER is not permitted,
  - to make copies of the scSoftware - apart from one (1) backup copy,
  - to sell, rent, lend, sublicense or otherwise transfer the scSoftware to third parties, unless expressly agreed otherwise with s+c,
  - to modify the scSoftware or create derivative works based thereon, unless otherwise required by law,
  - to remove from the scSoftware or any part thereof any proprietary or copyright notices, labels or marks of s+c or its licensors,
  - to export or re-export the scSoftware directly or indirectly without a corresponding export licence from s+c.
- (5) If the CONTRACTUAL PARTNER violates § 4 para. 4 of these General Terms and Conditions, s+c shall be entitled to an extraordinary right of termination with immediate effect; in this case the CONTRACTUAL PARTNER must immediately return the scSoftware including all documentation to s+c with the consequence that he may no longer use the scSoftware without incurring a compensation determined by s+c.
- (6) s+c shall indemnify the CONTRACTUAL PARTNER against all claims of third parties arising from the infringement of property rights to the programs provided in their contractual version. s+c shall be entitled to carry out necessary software changes at its own expense due to the property right claims of third parties at the CONTRACTUAL PARTNER.
- (7) The risk shall pass to the CONTRACTUAL PARTNER with the handover of the licence key (= date of the licence key).

## § 5 Maintenance contract

- (1) The subject of the maintenance is the scSoftware. s+c shall provide the CONTRACTUAL PARTNER with technical support from Monday to Friday at the times specified by s+c. The support service of s+c can be reached via the e-mail address specified in the product documentation.
- (2) The maintenance includes the following services of s+c:
  - The elimination of errors in the scSoftware, insofar as these have arisen during proper use of the scSoftware and not only insignificantly impair the contractual use of the scSoftware. The elimination of errors shall be effected, depending on the significance of the error, by the delivery of an improved software version or by indicating a possible workaround for the effects of the error.
  - The updating of the scSoftware: further developments and adaptations to new operating system versions as well as the provision of corresponding documentation.
  - In addition, s+c shall provide the CONTRACTUAL PARTNER with one (1) copy of the corresponding version of each update and upgrade of the scSoftware which is published during the maintenance period immediately after its publication.
- (3) The CONTRACTUAL PARTNER shall provide s+c with the following information for each request:
  - scSoftware version number,
  - machine type, operating system and version,
  - description in order to be able to reproduce the problem,
  - specific error number and error message as well as the circumstances under which they occur,
  - other information relevant to the identification of the error, and
  - telephone number and contact address for technical queries.
- (4) The elimination of faults and damage caused by improper handling on the part of the CONTRACTUAL PARTNER or by the influence of third parties are not the subject of the maintenance contract, but may be agreed between the contracting parties in individual cases against separate remuneration. The same shall apply to damage and faults caused by environmental conditions at the installation site, faults or non-performance of the power supply, faulty hardware or other effects for which s+c is not responsible.
- (5) However, maintenance does not include:
  - On-site services in connection with installation, consulting, training, customisation, configuration, relocation or reconfiguration of the scSoftware,
  - maintenance or support of operating systems as well as
  - support of software developed by the CONTRACTUAL PARTNER or procured by the CONTRACTUAL PARTNER from a third party.
- (6) The CONTRACTUAL PARTNER has no claim against s+c for the delivery of new software which is not part of the ordered scSoftware. The CONTRACTUAL PARTNER shall, however, be entitled to all releases of the

commissioned scSoftware; however, should s+c publish another software product with related but different functions under a different product name, the CONTRACTUAL PARTNER shall not be entitled to this software as an update or upgrade to the commissioned software.

- (7) s+c shall provide technical support for the current version of the scSoftware. Support shall be provided for each earlier version for up to six (6) months after the date of publication of the next version.
- (8) s+c has the right to discontinue support of certain platforms by the scSoftware. s+c will do so in the following two steps:
  - Firstly, it shall be determined that the platform is "obsolete", i.e. s+c will only provide new versions at the express request of the CONTRACTUAL PARTNER.
  - Not less than one year after the platform has been classified as "obsolete", it will be considered "discontinued", i.e. no new versions for this platform will be provided by s+c any more.
- (9) The classification of platforms as "obsolete" or "discontinued" (cf. § 5 para. 8 of the GTC) shall be published on the website of s+c under [atos.net/s+c](https://atos.net/s+c). The CONTRACTUAL PARTNER is responsible for regularly checking the website of s+c for changes to platforms.

## § 6 Contract for work and services

- (1) If a contract for work and services is concluded between the parties, s+c shall owe the SERVICE agreed therein and the CONTRACTUAL PARTNER the agreed remuneration for the work.
- (2) The SERVICE shall be accepted by the CONTRACTUAL PARTNER. The acceptance of the SERVICE shall take place after completion and handover of the SERVICE to the CONTRACTUAL PARTNER. s+c shall agree a joint acceptance date with the CONTRACTUAL PARTNER and draw up a handover and acceptance protocol which shall be signed by both parties.
- (3) If a joint handover and acceptance date does not take place despite a corresponding notice on the part of s+c in writing and if the services are put into operation by the CONTRACTUAL PARTNER without objection and without complaints for four weeks, the services shall be deemed to have been accepted by the CONTRACTUAL PARTNER as proper and free of defects four weeks after commissioning - however at the latest, six weeks after handover of the services, provided that no justified complaints have been made by the client during this period.

## § 7 Remuneration

- (1) The CONTRACTUAL PARTNER is obliged to pay the remuneration for the SERVICE or for the scSoftware stated in the offer or in the contract, respectively, plus the statutory value added tax in each case.
- (2) The prices of s+c apply from the registered office of the respective s+c branch. Unless otherwise contractually agreed, payments shall also be made for partial deliveries. The terms of payment shown on the invoice shall apply.

- (3) If the employees of s+c incur travel, accommodation or other expenses or outlays within the scope of the performance of the SERVICE/S, these shall be shown accordingly in the offer and invoiced to the CONTRACTUAL PARTNER. If the aforementioned costs are not included in the offer, they shall be invoiced within the framework of the maximum tax rates for travel costs and expense rates and shall be borne by the CONTRACTUAL PARTNER.
- (4) Unless a specific payment deadline is stated in the invoice, all payment amounts shall be due for payment without deduction on the 14th day after the invoice date at the latest. In the event of non-compliance with the payment date stated in the invoice or in the absence thereof after receipt of the reminder, interest on late payments shall be charged at a rate of 8% p.a. - 5% p.a. in the case of private individuals - above the base interest rate.

### § 8 Duration of contract and termination

- (1) The time specified in the offer or in the contract shall be decisive for the duration of the contract. If no specific period is specified therein, the contracting parties may terminate the contract with six (6) weeks' notice to the end of any calendar quarter. This shall not affect the right of either party to terminate the contract without notice for cause. In the event of dissolution or closure of the CONTRACTUAL PARTNER or in the event of an application for judicial or extrajudicial insolvency proceedings over its assets and/or over the assets of its shareholders, s+c shall have the right to terminate without notice for cause.
- (2) The termination must be in writing.
- (3) s+c can terminate the contract before the start of the SERVICE if s+c cannot provide the SERVICE due to an important reason. In this case the CONTRACTUAL PARTNER shall receive a corresponding notification without delay. Remuneration/s paid for SERVICES not yet provided shall be refunded by s+c.

### § 9 Data protection

- (1) s+c shall observe without restriction all regulations of the EU Data Protection Regulation (DS-GVO) and the Federal Data Protection Act (BDSG) relevant for the provision of the services agreed with the CONTRACTUAL PARTNER.
- (2) In this respect s+c shall take suitable technical and organizational measures to protect the security, confidentiality and integrity of personal data in accordance with the contractual agreements. This includes in particular measures to prevent access as well as the use, change and disclosure of personal data by third parties or by employees of s+c, except in the following cases:
  - (a) To provide the contractually agreed services and to prevent or remedy performance or technical problems,
  - (b) due to mandatory legal provisions in compliance with the contractual agreements or (c) with the express written consent of the CONTRACTUAL PARTNER.
- (3) Insofar as s+c processes personal data within the scope of the service provision on behalf of the CONTRACTUAL PARTNER, the provisions of the data processing agreement to be concluded separately

between the parties (in short "dpa") shall apply with priority. The parties undertake to comply with these provisions of the dpa.

### § 10 Duty of the CONTRACTUAL PARTNER to cooperate

- (1) Insofar as it is necessary for the performance of the SERVICE/S, the CONTRACTUAL PARTNER shall in each case cooperate in good faith, in particular provide the necessary documents and other prerequisites, provide the necessary information and inform s+c in writing about circumstances which could be of importance for proper consultation or processing. If this does not take place in time and/or contrary to the agreements or requirements, any additional expenditure in terms of time or costs incurred by s+c shall be additionally remunerated. s+c shall be entitled to provide the SERVICE/S at a later point in time or to additionally demand the additional expenditure in terms of time or costs incurred due to the delay of the CONTRACTUAL PARTNER with regard to the aforementioned duty to cooperate.
- (2) Should an on-site analysis be necessary within the scope of a maintenance contract, the CONTRACTUAL PARTNER shall enable s+c reasonable access to the systems concerned. Furthermore, he undertakes to make every effort to enable smooth maintenance on the part of s+c and to refrain from everything which could make the service more difficult or impossible.

### § 11 Confidentiality

The parties undertakes to treat specifications, data, documents, their own or joint development results and other business-related information communicated by the other party - in particular those marked as "confidential" - as confidential, not to duplicate them and not to make them accessible to third parties in any form or manner whatsoever.

### § 12 Warranty

- (1) s+c warrants that the SERVICES provided within the scope of a contract for work and services will fulfil the agreed functions for a period of twelve (12) months from acceptance of the SERVICES, that the scSoftware will function in accordance with the enclosed manual and that the media on which the scSoftware or parts thereof are delivered will be free from defects in material or workmanship under normal business use and maintenance.
- (2) In the event of defects in the SERVICE/S, s+c shall remedy the defect by subsequent performance. If the subsequent performance fails despite two attempts, the CONTRACTUAL PARTNER shall be entitled to withdraw from the contract. s+c shall only be obliged to rectify the defect or make a replacement delivery if the CONTRACTUAL PARTNER has fulfilled his contractual obligations in full for his part. Claims for damages of the CONTRACTUAL PARTNER due to defects of the SERVICE/S are excluded.
- (3) In the case of licence agreements, s+c warrants for a period of twelve (12) months from the transfer of risk that the scSoftware functions in accordance with the enclosed manual and that the media on which the scSoftware or parts thereof are delivered are free from

material or processing defects during normal business use and maintenance. The risk shall pass to the CONTRACTUAL PARTNER when the licence key is handed over (= date of the licence key). The warranty of s+c consists in the correction as well as the exchange of the media which are defective or, if this is not possible, in the repayment of the licence fee paid by the CONTRACTUAL PARTNER for a maximum of two (2) months against return of the scSoftware.

- (4) s+c does not guarantee that all software errors can be eliminated and that the functions contained in the scSoftware are executable in all combinations selected by the CONTRACTUAL PARTNER or meet his requirements.
- (5) The CONTRACTUAL PARTNER shall notify s+c in writing of the defect(s) immediately, at the latest however within two (2) weeks after handover of the SERVICE/S or the scSoftware. Defects which cannot be discovered within this period even with careful inspection must be notified to s+c in writing immediately after their discovery.
- (6) The warranty shall not apply if the failure of the scSoftware or hardware is due to an accident, misuse or incorrect use of the SERVICE by the CONTRACTUAL PARTNER or by third parties. The warranty shall also be void with respect to such SERVICES which have been modified or extended by the CONTRACTUAL PARTNER himself as well as if the CONTRACTUAL PARTNER does not follow the operating instructions or makes changes to the products.
- (7) All warranty claims pursuant to § 12 of these GTC shall become lapse within one (1) year from the transfer of risk or from acceptance, unless a longer warranty period is mandatory by law. In this case, the legally mandatory longer warranty period shall apply.

### § 13 Liability

- (1) Insofar as the SERVICES take place in the premises of the CONTRACTUAL PARTNER, the CONTRACTUAL PARTNER shall be responsible for the equipment of the rooms and the fulfilment of the safety regulations as well as accident prevention regulations. s+c shall not be liable for items brought in by the CONTRACTUAL PARTNER.
- (2) Compensation claims for damages of any kind, irrespective of the legal grounds, including damages as a result of the use of the scSoftware to data, software or hardware of the user are excluded unless s+c or its legal representatives or vicarious agents have acted intentionally or grossly negligently or the compensation claims result from the absence of an assumed guarantee. In the latter case, liability is limited to such damages that are covered by the guarantee. Furthermore, liability shall not be excluded in the event of injury to life, body and health for which s+c is responsible.
- (3) In the case of damages based on slight negligence, liability of s+c shall only exist if material obligations (so-called cardinal obligations) have been violated in the execution of the contract. In this case liability is limited to the typical and foreseeable damage; compensation for consequential damage such as lost profit and lost benefits of use is excluded.

- (4) The provisions set out under this provision shall not apply to claims under the provisions of the Product Liability Act. Furthermore, any possible mandatory statutory liability shall remain unaffected by this.
- (5) s+c assumes no liability for a success intended with the SERVICE or with the licensed scSoftware.

### § 14 Force majeure

- (1) Insofar as s+c cannot provide its contractual services or cannot provide them completely due to force majeure or due to other circumstances whose elimination is not possible or cannot be expected of the CONTRACTUAL PARTNER economically, the CONTRACTUAL PARTNER shall not be obliged to pay the remuneration agreed for the affected service; insofar as s+c cannot provide contractual services on time due to the circumstances according to sentence 1, the CONTRACTUAL PARTNER's remuneration obligation shall be postponed accordingly. Further disadvantageous legal consequences shall not occur for s+c.
- (2) Force majeure is an unavoidable event and includes in particular industrial action, war, riots, earthquakes, storms, volcanic eruptions, other natural disasters, epidemics and pandemics (including the outbreak of communicable diseases and health emergencies), fire, breakdown of communication or power lines, official orders. Force majeure does not depend on whether the event was foreseeable or not. Force majeure shall not be deemed to exist if the event triggering force majeure is within the sphere of influence of s+c (when exercising the due diligence of a prudent businessman) or if s+c is responsible for the occurrence of force majeure.
- (3) If the service provision of s+c is impaired for longer than three months and the parties cannot agree on measures to mitigate the effects, both parties shall be entitled to terminate the affected service after the expiry of the three months without observing a notice period.
- (4) s+c shall inform the CONTRACTUAL PARTNER without delay about circumstances according to sentence (1).

### § 15 Export and import control

- (1) The CONTRACTUAL PARTNER shall observe import and export regulations applicable to the deliveries or SERVICE/S on his own responsibility, in particular those of the USA. In the case of cross-border deliveries or services, s+c shall bear any customs duties, fees and other charges. The CONTRACTUAL PARTNER shall handle legal or official procedures in connection with cross-border deliveries or services on its own responsibility unless otherwise expressly agreed.
- (2) SERVICE/S under the contract may be subject to approval if they are passed on to third parties, such as subsidiaries of the CONTRACTUAL PARTNER, if they are exported from Germany or imported into a third country. The CONTRACTUAL PARTNER shall obtain the necessary permits before each export of the services.
- (3) The CONTRACTUAL PARTNER undertakes not to sell or provide services to third parties who are excluded

from a delivery of goods according to the US export regulations (Table of Denial Orders) or in warnings issued by the German Federal Government.

The fulfilment of the contract on the part of s+c is subject to the proviso that it does not conflict with any national or international regulations of foreign trade law, embargoes or other sanctions.

#### **§ 16 Offsetting, right of retention and assignment**

- (1) Offsetting against claims against s+c is excluded unless these have been legally established or are undisputed; the same applies to the exercise of a right of retention.
- (2) All claims directed against s+c are not assignable without written consent and can only be asserted by the CONTRACTUAL PARTNER himself.

#### **§ 17 Written form**

All supplements, amendments and ancillary agreements are subject to the written form. Verbal collateral agreements shall only become effective if the formal agreement has been cancelled in writing beforehand. Verbal amendments to the contract or ancillary agreements do not contain any cancellation or restriction of the formal agreement.

#### **§ 18 Place of performance and jurisdiction**

- (1) Place of performance for all obligations arising directly or indirectly from this contractual relationship, including obligations arising directly or indirectly from this contractual relationship, including the payment obligation, shall be the respective registered office of s+c.
- (2) The place of jurisdiction - insofar as the CONTRACTUAL PARTNER is a registered trader, a legal entity under public law or a special fund under public law - shall be Tübingen. s+c shall be entitled to take legal action before a court which is responsible for the registered office or a branch of the CONTRACTUAL PARTNER.

#### **§ 19 Choice of law**

The contractual relations between the parties shall be subject to German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods and to the exclusion of the conflict-of-laws provisions of international private law, even if the CONTRACTUAL PARTNER has its registered office abroad.

#### **§ 20 Severability clause**

Should one or more provisions of the contract or of these terms and conditions be or become invalid and/or unenforceable, the validity of the remaining provisions shall not be affected thereby. The invalid and/or unenforceable clause shall be replaced by a provision that comes closest to the intended purpose of the provision in legal and economic terms, provided that this does not result in a material change to the content of the contract; the same shall apply if a matter requiring regulation is not expressly regulated.