

General Terms and Conditions for IDS Scheer AG Software Maintenance Agreements (IDS Scheer-PS) – 02/2008 version

The following descriptions of services and Terms and Conditions of IDS Scheer AG, Saarbrücken (hereinafter "IDS SCHEER"), are an integral part of all Software Maintenance Agreements between IDS SCHEER and the Licensee of the software. IDS SCHEER enters into Software Maintenance Agreements exclusively on the basis of these arrangements and terms and conditions as well as its list of prices and conditions.

By entering into a Software Maintenance Agreement Licensee accepts these Terms and Conditions and waives any conflicting terms and conditions. This is also true in cases where there is no express conflict with the General Terms and Conditions of IDS SCHEER. Any other conditions are binding only upon being accepted in writing by IDS. In such cases, the conditions set by IDS SCHEER are supplementary.

A. Subject Matter of the Agreement

The following definitions are part of this Description of Services (Part A) as well as of the General Terms and Conditions (Part B) and define the meaning of the individual terms used in all Software Maintenance Agreements and the provisions pertaining thereto.

1 Definitions

1.1 Release

A new release or a new software release is an update of a program which brings it to the level of the latest technical advances and results in a change of the first digit of the number designating the software, such as from Release 5.0 to 6.0.

1.2 Version

A new version of the software represents a functional modification of the program and results in a change of the first digit after the period in the number designating the software, such as from 6.1 to 6.2.

1.3 Patch

A new patch is reflected in a change in the second digit after the period, such as from 6.2.0 to 6.2.1

1.4 Upgrade

An upgrade is a modification to a new release or a new version.

1.5 Update

An update comprises a modification to a new patch within a release or a version.

1.6 Software Desupport

In the event of software desupport, a version or a release shall no longer be supported by the hotline; support is terminated.

1.7 Router

A router is hardware that helps establish a computer network connection, for instance via an ISDN hook-up.

1.8 Decompiling

Decompiling is the back translating of purchased program code into other code forms.

1.9 Reverse Engineering

Reverse engineering refers to the breakdown of the various stages of development of the software.

2. Description of Services under the Software Maintenance Agreement

To the extent that Licensee has chosen a Software Maintenance Agreement, Licensee is entitled to request the following services for the Enrolled Software against payment of the agreed-upon compensation according to the list of prices and conditions. Acquisition of a software license pursuant to the IDS Scheer AG General Licensing

Terms and Conditions for the Licensing of Standardssoftware (IDS Scheer-LS) – 07/2004 version [for ARIS 6.x-releases], IDS-Scheer-LCC/LSC – 07/2005 version [for ARIS 7.x Client- or Serversoftware] is a prerequisite to entering into a Software Maintenance Agreement.

The services described below constitute services going beyond the warranty covering defects of the IDS SCHEER software products within the scope of the Software Licensing Agreement. Elimination of defects shall be free of charge during the warranty period, including work related to the services offered here.

2.1 New patches

Pursuant to Sections 2.1.1 through 2.1.3, IDS SCHEER shall from time to time provide to Licensee new updates of the Enrolled Software in order to maintain it at the most current level, to prevent disruptions, and to resolve known application problems.

2.1.1 New versions / New releases

New versions and new releases will be made available for download on the FTP server. Licensee may also purchase the software at a previously agreed upon price on readily available media. IDS SCHEER shall choose the medium used at its discretion.

Licensee shall be responsible for installing supplements and updates. IDS SCHEER is willing to perform this installation for Licensee under a separate agreement. Section 1 of the IDS Scheer AG General Terms and Conditions of Business (IDS Scheer-AV) – 07/2004 version shall apply here in supplement.

2.1.2 New Products and Updates

The provision of new products or obligations to update the Enrolled Software are not the subject matter of maintenance services, except as otherwise expressly agreed upon.

2.1.3 Duties and Rights regarding New Software Updates

IDS SCHEER shall make available to Licensee new updates of the software. Licensee shall examine new versions without delay and give notice of any discernible defects, whereby Sec. 377 HGB [German Commercial Code] shall apply mutatis mutandis.

To the extent that IDS SCHEER has made a new version available to Licensee, IDS SCHEER shall continue to maintain the previous version for an appropriate transition period, as a rule not to exceed three months.

Licensee shall have claims due to defects in regard to new versions only if the reported defects can be reproduced or otherwise proven by Licensee. Section B 3.3 shall apply in particular for reporting defects.

If Licensee has claims due to defects, Licensee shall initially have a right only to subsequent fulfillment within a reasonable time period. Subsequent fulfillment shall include at IDS SCHEER's choice either remediation of the defect or delivery of replacement software. In making this choice, Licensee's interests shall adequately be taken into account.

2.2 Software Information Service

Software Information Service informs Licensee of the status of the software and regularly provides problem descriptions with suggested solutions. Software Information Service is generally issued quarterly. IDS will select the medium and inform the licensee in due time.

2.3 Hotline

Our Telephone Hotline is available to Licensee from 9:00 am to 5:00 pm, workdays (Monday through Friday). The named branch office offers telephone support to Licensee for the identification, verification, avoidance, or solution of software problems. IDS SCHEER agrees to help Licensee solve problems using its expertise and experience with the products obtained from IDS SCHEER. IDS SCHEER is dependent upon the cooperation of the client, which

includes, in particular, a detailed description of the way the problems are manifest. In contrast to the remote maintenance described in Section 2.4, IDS SCHEER will not log in to Licensee's EDP system, but will at most contact Licensee by e-mail, in addition to telephone consultation. Special evaluations, simulations or tests on Licensee's EDP system are not included in this service.

IDS SCHEER reserves the right to introduce improvements in the course of this procedure, which will be communicated to Licensee as soon as they become available.

2.4 Remote Support

In addition to the above-mentioned telephone hotline, IDS SCHEER will directly log in to Licensee's EDP system via telecommunications in order to directly correct errors via remote support/off-site maintenance. For this service, Licensee must enable remote support including direct access to all computers it utilizes. The exact configuration must be coordinated with IDS SCHEER beforehand. It is Licensee's responsibility to ensure that IDS SCHEER has appropriate access to the respective systems so that all applications can be started via remote support and, if necessary, system changes can be made to achieve proper operation of the software. Any routers activated at Licensee's location will be configured by calling one of the IDS SCHEER telephone numbers (TCP/IP protocol). Should Licensee not be able to enable such remote-support capability on time, IDS SCHEER will invoice services provided on-site in accordance with the expenses incurred. In the event that third-party software is made available by IDS SCHEER, the general terms and conditions of the respective manufacturers shall apply. Any liability for such software on the part of IDS SCHEER is excluded.

2.5 Software Desupport

Because of the ever-changing systems landscape, IDS SCHEER reserves the right to publish support announcements every six months. These will be valid for the following six months. Defects in software versions no longer supported, if they can be corrected by a program update, will be eliminated by upgrading to the latest version of the software supported by IDS SCHEER. Should Licensee have made specific, non-standard adjustments, further adjustments will be required, which IDS SCHEER will invoice in accordance with the expenses incurred. This also applies to any required additional software (i.e. database system).

IDS SCHEER gives Licensee express notice that Licensee is responsible for backing up its data by means of appropriate data backup media and that it may need to verify backups by providing records. This is especially important in cases where remote maintenance is performed by IDS SCHEER within the meaning of Section 2.4

2.6 Exclusion of Support

Additional services regarding the change of software updates and releases not pertaining directly to Section A2, are not included in the scope of services provided by IDS SCHEER. Errors caused by a new version of the operating system, a new database system, or otherwise by the general operating system administration of the Licensee are not included in the scope of the Software Maintenance Agreement.

In the event Licensee implements changes to the source or software systems on which the IDS SCHEER software products to be maintained are resident, any resulting necessary adjustments to the IDS SCHEER software products are not included in the Software Maintenance Agreement.

2.7 Problem Classes, Response Times, Measures

2.7.1 Problem Classification

Depending upon the problem class to which Licensee's problem is assigned, IDS SCHEER shall respond within the different response times as outlined in the following classification:

Class 1 problems:

The system aborts or can only be returned to operational status by re-booting. A function required for operation is not usable.

Class 2 problems:

Severe operating-system disruption. The system is still running, but is no longer operational.

Class 3 problems:

Minor operating-system disruption. The system is still running, but shows minor defects which significantly impede the use of the system.

Class 4 problems:

General inquiries about the product, but not training services. Licensee can agree on this with Licensor in return for separate compensation based on a training agreement to be entered into separately with the Licensor.

2.7.2 Response Times

For Class 1 problems, IDS SCHEER warrants a qualified return call within 4 hours.

For Class 2 problems, the response time will be no more than one working day; for Class 3 problems, no more than 2 working days.

For Class 4 problems, IDS SCHEER does not guaranty a response time, but will process Licensee's query within the normal course of business without delay.

2.7.3 Measures

In compliance with Section B3.3 IDS SCHEER shall initiate without delay appropriate measures based on the circumstances reported by Licensee in order to first locate the cause of the disturbance.

In the event that according to initial analysis the reported disturbance does not constitute an error of the Enrolled Software, IDS SCHEER shall inform Licensee of this without delay. Otherwise, IDS SCHEER shall take appropriate measures for a more thorough analysis and to have the reported disturbances corrected or, with third party software, to inform the distributor or manufacturer of the disturbance report and the results of IDS SCHEER's analysis.

IDS SCHEER shall provide to Licensee without delay measures to avoid or correct the error in the Enrolled Software, such as directions for actions or corrections to the Enrolled Software. Licensee shall adopt without delay such measures to avoid or correct disturbances and upon implementation again report any remaining disturbances to IDS SCHEER without delay.

2.8 On-Site Analyses and Service

Should it be impossible to solve Licensee's reported problems within the scope of this Service Agreement by remote maintenance or via the hotline, an on-site appointment will be agreed upon, if necessary, within 5 working days. Licensee shall bear the costs of this appointment to the extent that remote support did not result in a solution to the problem for reasons for which Licensee is responsible. For Class 4 problems, Licensee shall always bear the costs of an on-site appointment. In addition, the current per diem rates for IDS SCHEER employees plus travel and other expenses shall apply.

The service described does not include any additional services above and beyond the aforementioned services.

2.9 Contact Person, Proof of Entitlement

2.9.1 Acceptance and Processing of Queries

Licensee shall designate to IDS SCHEER only personnel with appropriate professional and technical qualifications who shall be assigned internally at Licensee to process queries from users about the Enrolled Software. Only such personnel designated to IDS SCHEER shall direct queries to the hotline.

2.9.2 Proof of Entitlement

To protect against improper use of services, services may only be requisitioned by the contact individual named in the service order. Before making use of services Licensee must prove entitlement by providing the service contract number that can be found on the IDS Scheer invoice. Without such proof, IDS SCHEER is under no obligation to provide services.

2.10 Additional Services

Services beyond those described in Section A2 are not due under this Agreement; they require a separate agreement and shall be compensated separately. This can involve agreement on additional on-site assignments at client's location, consulting and support with modified software, clarification of interfaces with third party systems, as well as installation and configuration support.

B. General Provisions

The following provisions shall apply to Software Maintenance Agreements.

1. Term

1.1 To the extent not otherwise agreed upon, the Software Maintenance Agreement commences upon delivery pursuant to Section 1 of the IDS Scheer AG General Licensing Terms and Conditions for the Licensing of Standardsoftware (IDS Scheer-LS) – 07/2004.

1.2 The Agreement shall initially have a basic term until the end of the year in which it was executed or the order was accepted by IDS SCHEER. The Agreement shall be extended for an additional 12 months unless one Party communicates by means of certified mail before expiration of a notice period of three months to the end of the year that the Agreement shall not be renewed (non-extension notice). The other party's receipt of the notice of non-extension shall be determinative of compliance with the deadline for delivery of such notice. Beyond that, the Agreement can be terminated without notice for cause by supplier or customer.

1.3 Declarations of termination must be in writing to be effective

2 Compensation

2.1 Flat Rate Compensation

Compensation for maintenance services shall be made by Licensee on an on-going flat rate basis. Compensation for maintenance is due in advance of the invoicing period and shall be invoiced to Licensee by IDS SCHEER at the start of the invoicing period. As a rule, the invoicing period is the calendar year. At the commencement of the Agreement during an invoicing period, compensation is due pro rata temporis and shall be invoiced upon entering into the Agreement.

2.2 Compensation for Additional Services

Additional services that are not satisfied by the flat rate compensation shall be compensated pursuant to Section 1.1 of the IDS Scheer AG General Terms and Conditions of Business (IDS Scheer-AV) – 07/2004 version.

2.3 Adjustment of Compensation

IDS SCHEER can adjust compensation annually to general list prices. Licensee shall have a right of termination if compensation rates are increased by more than 10%.

2.4 Rights of Use

Licensee's rights of use to new versions and other corrections to the Enrolled Software correspond to the rights of use to the previous version of the Enrolled Software. In regard to the rights of use, the rights to the new versions and other corrections shall supercede the rights to the previous versions and other corrections after an appropriate transition period, which as a rule shall be one month. Licensee may archive one duplicate piece.

3. Duties of the Licensee

3.1 Licensee shall designate a responsible contact person. This person can and shall without delay make or cause to be made binding decisions for Licensee. The contact person shall be available to IDS SCHEER to provide required information.

3.2 Licensee shall inform IDS SCHEER without delay of changes in the operational environment. Furthermore, Licensee shall ensure that the Enrolled Software is operated only in a released environment that is supported by the Enrolled Software.

3.3 Licensee shall give written notice of defects in understandable and detailed form including specifying all information useful for recognizing and analyzing defects. In doing so, the work steps that led to the defect appearing, the form of appearance and the impact of the defect shall be specified.

3.4 Licensee shall see to that competent personnel are available to support IDS SCHEER.

3.5 Licensee agrees to support IDS SCHEER to the extent required and to create all conditions within Licensee's sphere of operations that are necessary for proper execution of the order, in particular to facilitate remote access to Licensee's system and to provide other analysis materials. Furthermore, at IDS SCHEER's request, Licensee shall provide without charge sufficient resources and necessary workstations.

3.6 To the extent not otherwise agreed upon, Licensee shall also store all IDS SCHEER documents, information and data provided in such a manner that the latter can be reconstructed in the event of damage to or loss of the storage media.

3.7 IDS SCHEER can demand additional compensation for its expenditures to the extent that

- a) It takes action based on a report and no defect is present, or
- b) A reported disturbance cannot be reproduced or otherwise proven as a defect by Licensee, or
- c) Additional expenditures are incurred because of lack of proper fulfillment of obligations by Licensee.

4. Delivery

To the extent that software is provided within the scope of these terms and conditions and not otherwise agreed upon, this shall be done by the same way as in the provision of the Enrolled Software.

5. Applicability of IDS SCHEER-AV

The IDS Scheer AG General Terms and Conditions of Business (IDS Scheer-AV) – 07/2004 version shall apply in supplement.

In regard to material defects or defect of title, Section 5 respectively Section 6 of the IDS Scheer AG General Terms and Conditions of Business (IDS Scheer-AV) – 07/2004 version shall apply in supplement.

For default and damage claims and reimbursement of expenditures, Section 7 of the IDS Scheer AG General Terms and Conditions of Business (IDS Scheer-AV) – 07/2004 version shall apply in particular.

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**IDS Scheer AG General Terms and Conditions of Business
(IDS Scheer-AV) – 07/2004 version**

1. Compensation, Payment, Default, Reservation of Rights Notices

- 1.1** To the extent not otherwise agreed upon compensation according to expenditures shall be calculated at the IDS SCHEER prices generally valid at the time this Agreement is entered into. Compensation is at net prices always, plus any statutory sales tax due.
- 1.2** IDS SCHEER can invoice monthly. In the event that services are invoiced according to expenditures, IDS SCHEER shall document the nature and duration of activities and include this documentation with its invoice.
- 1.3** All invoices shall be paid no later than 14 calendar days after receipt, all costs included without deductions.
- 1.4** A Party can offset against or withhold only with uncontested or legally non-appealable payables. The Party can withhold payments due to defects only to an extent appropriate in relation to the defect and only if there is no doubt regarding the defect.
- 1.5** Notwithstanding more extensive rights, in the event that the Party is in default with payments, IDS SCHEER is authorized to suspend or withhold additional services until the Party has made such payment. Furthermore, IDS may at its discretion make completion of any outstanding services dependent upon the Party prepaying the next partial payment in its entirety, or providing collateral for

compensation due in the form of an indefinite, directly enforceable guarantee issued by a large European bank on any outstanding compensation. Furthermore, past due payments for which the Party is in arrears shall be subject to default interest pursuant to Sec. 288 II BGB [German Civil Code].

1.6 IDS SCHEER reserves title and rights to be granted to the services until all compensation owed has been paid in full, for which justified withholding for defects pursuant to Sec. 1.4, second sentence, shall be taken into account.

1.7 In the event of the Party's economic inability to fulfill its obligations to IDS SCHEER, IDS SCHEER can terminate without notice existing exchange contracts with the customer by means of rescission, contracts for the performance of a continuing obligation by means of termination, including in the event of the Party's insolvency petition. Sec. 321 BGB and Sec. 112 InsO [German Insolvency Act] remain unaffected. The Party shall inform IDS SCHEER in writing in a timely fashion about imminent inability to pay.

1.8 Fixed deadlines for services shall be valid only to the extent they are agreed upon in writing. Agreement to a fixed deadline for services shall be subject to the proviso that IDS SCHEER receives the services of its respective suppliers and subcontractors as agreed upon and in a timely fashion.

1.9 The Party may assign rights from this Agreement to a third party only with the prior written consent of IDS SCHEER.

2. Duty Of Good Faith, Confidentiality, Confidentiality Of Data

2.1 The Parties are committed to mutual loyalty. Neither Party shall attempt to hire employees away from the other Party to this Agreement or indulge in direct or indirect measures of any kind which would encourage the employees of the other Party in this respect or which could lead to the employment of such employees. This mutual duty of good faith shall continue for a period of two years after completion of the project.

2.2 The Parties shall handle with confidentiality for an unlimited time all information or informational materials which they obtain or of which they gain knowledge within the context of the working relationship, either orally, in writing, or otherwise directly or indirectly, and which is designated as confidential or would normally be viewed as confidential based upon the nature of the materials, and shall use this information or these informational materials exclusively within the context of the services covered in this Agreement. The only exceptions to this confidentiality obligation are information and informational materials which

- a) are already publicly known at the time of their disclosure, i.e. completely accessible by any third party;
- b) following disclosure, are made available lawfully to one Party by a third Party who is not subject to a confidentiality obligation to the other Party;
- c) must be provided upon demand of an authority or other third party having power to compel disclosure; or
- d) must be provided to legal or tax consultants of the respective Party for consulting purposes.

In the event of circumstances described in Items c and d, the Parties shall inform each other immediately with regard to such a demand and prior to transmitting any protected information.

2.3 The Parties shall ensure that a corresponding confidentiality agreement is signed by all employees or third parties used to perform the services covered in this Agreement.

2.4 The Parties understand that communication between them will transpire to a substantial extent in non-encoded electronic form (e.g. email) and therefore waive any claims based on unauthorized third parties exercising illegal

access to electronic communication media and thereby acquiring knowledge of electronic data transmitted without encoding as mentioned above.

3. Change Request

3.1 The Party is authorized to modify the content or scope of services during the course of the project. The following change request procedure shall serve that purpose. This procedure shall be valid for all parts of a project.

3.1.1 IDS SCHEER shall examine a change request from the Party and inform said Party as to whether an extensive review of such change request is required or not.

3.1.2 In the event that an extensive review is required, IDS SCHEER shall inform the Party within a reasonable period of the expected time needed for such a review and the remuneration arising from it. Within a reasonable period of time, the Party shall issue the order for the review or reject it.

3.1.3 In the event that an extensive review of the change request is not required or the ordered review has been completed, IDS SCHEER shall either

a) inform the Party that the change request cannot be executed by IDS SCHEER within the framework of the agreed-upon services, or

b) provide to the Party a written quotation for executing the changes (quotation for the change). The quotation for the change shall include in particular any changes in the description of services and their impact on the service time period, planned deadlines, and compensation. The quotation shall explicitly take into account as well any possible savings through reduced expenditures.

3.1.4 The Party shall either accept or reject in writing a quotation for changes within the acceptance period (binding period) mentioned therein.

3.1.5 IDS SCHEER and the Party may agree that the services affected by a change request shall be interrupted until completion of the review or, to the extent a quotation for the change has been provided, until expiration of the binding period.

3.1.6 Until a quotation for the change has been accepted, work shall proceed on the basis of prior contractual agreements. Service periods shall be extended by the number of calendar days on which work was interrupted in connection with the change request or its review. IDS SCHEER can demand appropriate compensation for the duration of the interruption, except to the extent it has assigned its employees affected by the interruption otherwise or maliciously refused to so assign them.

3.1.7 In the event that IDS SCHEER wishes to make change requests to the Party, the above shall apply mutatis mutandis.

3.1.8 Change requests shall always be directed to the project director of the other Party.

4. Disturbance in Rendering of Services

4.1 When a cause for which IDS SCHEER is not responsible, including strikes or lockouts, interferes with meeting deadlines ("disturbance"), deadlines shall be extended by the duration of the disturbance, including a resumption phase as required. The Party within whose area the disturbance occurs shall inform the other Party immediately of the cause and duration of the postponement.

4.2 In the event that a disturbance increases the expenditure, IDS SCHEER can also demand compensation of the increased expenditure, except if the Party is not responsible for the disturbance and its cause is outside the realm of its responsibility.

4.3 In the event that the Party can rescind the Agreement or demand damages in lieu of services because of improper performance by IDS SCHEER, or the Party claims the same, at IDS SCHEER's request the Party shall state in writing within a reasonably set deadline whether the Party

will assert these rights or wants services to continue. In the case of rescission, the Party shall reimburse IDS SCHEER the value of previously existing utilization options; the same shall apply to deterioration through use in accordance with directions.

5. Material Defects

5.1 No claims based on material defect exist for an insignificant deviation in IDS SCHEER services from the quality or usefulness according to the Agreement.

5.2 A claim based on material defect is also excluded based on:

- a) the correctness of the manufacturer's information on the reliability or performance of a data processing system or software recommended by IDS SCHEER,
- b) defects in a data processing system recommended by IDS SCHEER, or
- c) entrepreneurial risks, based on decisions made or omitted regarding issues of entrepreneurial discretion, erroneous evaluation of the market situation or misjudging the practicality of business actions.

5.3 Claims based on defects also do not exist in the case of excessive or improper use, natural wear out, component failure in the system environment, software errors that are not reproducible or which the customer cannot otherwise prove, or damages that arise due to specific influences that are not provided for in the Agreement. This shall apply as well to subsequent changes or maintenance by the Party or a third party, unless such changes or maintenance do not impede analysis and elimination of the material defect.

5.4 Claims based on a material defect shall be statute-barred within one year after the commencement of the statutory limitation period. The statutory periods for a recourse claim according to Sec. 478 BGB [German Civil Code] shall remain unaffected. The same shall apply to the extent that the law prescribes a longer period in the case of intentional or grossly negligent breach of duty by IDS SCHEER, fraudulent concealment of a defect, or in the event of injury to life, body or health.

5.5 Processing of the Party's notice of a material defect by IDS SCHEER shall result in tolling of the limitation period only to the extent that the statutory prerequisites for such tolling are present; a resumption of the limitation period does not occur as a result. Subsequent fulfillment (new delivery or remediation of defect) can influence only the limitation period of the defect that gave rise to the subsequent fulfillment.

5.6 Section 7 shall apply for claims for compensation of damages or expenditures.

6. Defect of Title

6.1 IDS SCHEER shall be liable for infringements of third party rights by its services only to the extent that services are employed in accordance with the Agreement and in particular in the environment provided for in the Agreement. Section 5.1 shall apply mutatis mutandis.

6.2 To the extent not otherwise agreed upon, IDS SCHEER shall be liable for infringements of third party rights only within the European Union and the European economic region, as well as at the site of use of services according to the Agreement.

6.3 In the event that a third party asserts to the Party that IDS SCHEER services infringe upon the third party's rights, the Party shall inform IDS SCHEER immediately. In the event that IDS SCHEER services infringe upon third party rights, at its own discretion and taking appropriate account of the Party's interests, IDS SCHEER shall

- a) Procure for the Party the right to use the services, or
- b) Design the services to be free of infringements of rights, or
- c) Take back the services while reimbursing the Party for compensation it paid for such services less an appropriate compensation for use, if IDS SCHEER

cannot achieve any other remedy with reasonable expenditure.

6.4 The Party shall support IDS SCHEER upon its demand in defending against claims pursuant to Section 6.3. Outlays and costs incurred by the Party as a result shall be reimbursed by IDS SCHEER. Each party shall bear the costs of time expended by its own personnel.

6.5 The Party's claims based on defects of title shall be statute-barred in conformity with Section 5.4.

6.6 Section 7 shall apply in supplement to claims for compensation of damages or expenditures.

7. Liability

7.1 In the case of simple negligence and to the extent not otherwise required by compulsory law or statute, the following shall apply:

IDS SCHEER is liable only to the extent it has breached a material contractual obligation (cardinal obligation). In the case of material damages and financial losses, this liability is limited to typical contractual and foreseeable damages. This shall apply as well for profits not realized and lost savings. The liability overall is limited to the value of the order; in the case of ongoing compensation, to the amount of double net compensation per contractual year. Liability for other, more remote consequential damages caused by a defect is excluded. Section 5.4 shall apply mutatis mutandis in regard to limitation period.

7.2 IDS SCHEER shall be liable solely for damages under a guaranty if such liability is expressly assumed in the guaranty. This liability is subject to the restrictions pursuant to Section 7.1 in the case of simple negligence.

7.3 In the case of loss of data, IDS SCHEER shall be liable only for that expenditure which is required to restore data with proper data security by the Party. In the case of slight negligence by IDS SCHEER, this liability shall arise only if the Party took proper data security actions immediately prior to the action that led to the loss of data.

7.4 In the case of culpable delay of performance (default), the Party shall have a claim to compensation of damages and expenditures upon proof of corresponding damages, beginning with the third week of default. For each subsequent week, this claim is limited to 0.5% of the net price for that portion of services that cannot be used due to the default. This default liability is limited in all to a maximum of 5% of this price. Within the framework of statutory provisions, the Party shall have a right of rescission beyond that only if IDS SCHEER is responsible for the delay. These limitations shall not apply to the extent that the default is based on gross negligence or intent by IDS SCHEER.

7.5 Sections 7.1 to 7.3 shall apply mutatis mutandis for claims for compensation of expenditures and other liability claims by the Party against IDS SCHEER.

8. Other

8.1 The Party shall have sole responsibility for compliance with import and export regulations applicable to goods or services, in particular such regulations by the USA. In the case of cross-border goods or services, the Party shall bear any customs, fees, or other levies due. The Party shall have sole responsibility for handling any legal or governmental procedures in connection with cross-border goods or services, except to the extent otherwise expressly agreed upon.

8.2 The Party assumes a duty to examine and immediately raise any complaints about any defects in regard to all IDS SCHEER goods and services, in compliance with Section 377 ff. HGB [German Commercial Code].

8.3 This Agreement and any legal relationships between the Parties resulting therefrom shall be governed solely by the laws of the Federal Republic of Germany, to the exclusion of all regulations of German international private law. The application of the law of a third country, including its regulations governing conflict of laws, as well as the

application of the UN Sales Convention, is expressly excluded.

- 8.4** Amendments or additions to this Agreement must always be made in writing.
- 8.5** Court of venue in regard to a businessman, a legal entity under civil law, or assets under civil law is the registered office of IDS SCHEER. IDS SCHEER can also bring suit against the customer at its registered office.

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