

1. Software capabilities, warranty of product characteristics

The CLIENT acknowledges that it has the responsibility of assuring the compatibility of the Software to its own needs, and that it possesses the necessary expertise for the installation and use of the Software.

2. Software licenses

- (a) The CLIENT agrees to use the Software in accordance with the relevant provisions of this agreement, as well as the requirements of security and proper use contained in the documentation provided to the CLIENT and for its exclusive needs.
- (b) Subject to the terms and conditions of this agreement Business-Logics grants the CLIENT a non-exclusive, time-wise unrestricted right to use the Software on one (1) productive computer and one (1) test computer.
- (c) The Software is delivered in machine readable, binary code, usually by email containing a weblink for the Software download.
- (d) The CLIENT is permitted to sell or donate the Software or License, under the proviso that the acquiring third party is in accord that the contractual terms and conditions at hand shall henceforth also be imposed on it. In the event of passing on as a resale or donation, the CLIENT shall hand over to the new user all copies of the Software, including possible backup copies made or destroy the copies not handed over. As a result of imparting, the former CLIENT's rights to use the Software and its documentation shall extinguish. In the above events, the CLIENT is obliged to notify Business-Logics immediately in writing of the name and full address of the purchaser. Leasing, rental, application service or other dissemination of the Software to third parties is prohibited. In the event of passing on the Software or License, the disposal is limited to the number of Licenses duly purchased by the CLIENT.
- (e) All rights, including copyright and other intellectual property rights, in and to the Software and all documentation relating to the Software are owned by Business-Logics, unless explicitly stated otherwise.
- (f) Software licenses are granted for an indefinite amount of time, and can only be terminated by Business-Logics for an important reason. An important reason particularly exists if the CLIENT fails to properly meet its contractual obligations or fails to pay outstanding payments 21 days after receipt of the reminder. Termination is relevant in regards to all versions of the Software supplied to the CLIENT, including reproduced copies. The right to use the Software granted to the CLIENT is beginning on the date when full payment is received from the CLIENT.
- (g) Business-Logics offers in some cases updates or upgrades for the Software on the basis of additional fees. If using the update or upgrade service, old licenses will become invalid.
- (h) In the event that the contract is cancelled, the CLIENT is obligated to destroy the original software and all copies including any modified copies as well as all written documents. The CLIENT will confirm fulfilment of this to Business-Logics in writing within 14 days.
- (i) Operating systems, networks and office tools shall be installed and administered by the CLIENT on the CLIENT's computers. The CLIENT shall also have the responsibility for installation and administration of the relational database management system, if required.

3. Warranty of Software products

- (a) Business-Logics makes every effort through the implementation of quality assurance measures to keep its Software free of defects, but points out that with current technology it is not possible to guarantee that Software is completely free of defects.
- (b) In the event of defects covered under warranty, Business-Logics will choose to amend the defect through rectification or exchange.
- (c) If Business-Logics' attempts of remedying a reported defect remains unsuccessful, whereby two attempts of remedying the defect shall be allowed, the CLIENT shall be entitled for contract cancellation or the CLIENT has the right to an appropriate reduction of remuneration.
- (d) The warranty is void for any programs or parts of programs that were modified or extended by the CLIENT, unless the CLIENT can furnish proof to Business-Logics that such modifications or extensions are not the cause of the defect. The warranty claim is also void in case of defects, suspensions, interruptions and damages that are a consequence of incorrect operation, hardware and operating system failures, non-compliance with data security regulations or other processes outside of Business-Logics' responsibility, or if the CLIENT denies Business-Logics the opportunity to investigate the cause of the defect.
- (e) The period of limitation for claims due to defects is one year from receipt of the Software for general merchants and two years from receipt of the Software for consumers.

4. Warranty against infringement

Business-Logics warrants the CLIENT against any infringement action based on copyright relating to the Software which it has developed and published or disclosed to the CLIENT. This is subject to the following conditions:

- (a) that the CLIENT shall have notified Business-Logics by registered letter, return receipt requested, within a period of 30 working days following the claim, infringement action or declaration preceding such action,
- (b) that Business-Logics shall have had the ability to defend its own interests and those of the CLIENT, and in this respect, that the CLIENT shall have faithfully assisted in said defense by furnishing all items, information and assistance necessary for a successful defense, at Business-Logics's cost,
- (c) that the indemnity claim arises from acts or circumstances occurring prior to the termination or expiration of this Agreement,
- (d) that the action giving rise to the claim was not caused by the CLIENT's breach of this Agreement,

- (e) that indemnity payments will be pending until a final adjudication of the third party claim by a court of competent jurisdiction from which no appeal of right exists.

In the event of a prohibition against use of the Software resulting from an infringement action or a settlement concluded with the plaintiff in such action, Business-Logics shall at its own choice:

- (a) either obtain the right for the CLIENT to continue use of the Software or of any item of the Software at issue,
- (b) or replace it with an equivalent item which is not the subject of an infringement action,
- (c) or modify the Software in order to avoid such infringement,
- (d) or reimburse the CLIENT of the price paid and of the damages suffered.

5. Liability

Notwithstanding anything to the contrary, under no circumstances will Business-Logics be liable for indirect, special, consequential or incidental losses or damages (including, but not limited to loss of profits, lost or damaged data, failure to achieve cost savings, loss of equipment or systems, or the failure of or increased expense of operations) of any kind, regardless of whether any such losses or damages are characterized as arising from breach of contract, warranty, tort, strict liability or otherwise, even if such damages are foreseeable or Business-Logics has been advised of the possibility of such damages. The exclusion shall not apply for liability for gross negligence or deliberately inflicted damage and shall not apply in cases of injury of life, body or health if this has been caused by a negligent breach of duty from Business-Logics. Requirements, which are based on indispensable laws for product liability, remain likewise unaffected. The liability for loss of data is limited to the cost of recovery of the data that would have been incurred if a regular production of back-up copies appropriate to the risk involved had been made.

6. Product modifications

Business-Logics reserves the right to make product modifications that do not affect the Software's general operability.

7. Final provisions

- (a) Place of fulfilment is Hilden, Germany.
- (b) If the CLIENT is a fully qualified general merchant, a legal person under public law or a special fund under public law, the exclusive place of jurisdiction for all claims based on and due to this contract as well as for all disputes arising between Business-Logics and the CLIENT is the registered office of Business-Logics. The same shall apply if the CLIENT has no general legal venue in Germany or if his residence or usual domicile is unknown when legal action is taken.
- (c) The agreement and any amendments shall be to both the substantive and procedural rules of the laws of Germany. International law, particularly the UN Convention on Contracts for the International Sale of Goods, is excluded.
- (d) The CLIENT agrees, that the data transmitted electronically or by other means may be collected, stored and processed by computer systems, or otherwise by Business-Logics for the purpose of concluding and processing this contractual relationship. The CLIENT in particular agrees to receive emails by Business-Logics in the context of electronic invoicing. In all other respects, **our general privacy policy** applies.
- (e) All agreements, modifications, supplements, and the partial or whole cancellation of agreements shall require written form. This shall also apply to the modification or cancellation of the requirement for the written form.
- (f) If one or more provisions of this agreement were determined to be invalid or unenforceable as a result of the application of a legal or regulatory provision or based on an enforceable judicial or administrative decision, the remaining provisions shall retain their effect and scope.

Version: July 12, 2018

Maintenance agreement

1. Subject of agreement

(a) Flat rate for contractual services

Business-Logics will provide the following maintenance services for the software listed in the order (contract software). These services will be granted for a fixed price as referred to in the order during the term of this agreement:

- i. Supply of new, enhanced versions (clause 2)
- ii. Maintaining interoperability (also clause 2)
- iii. Individual elimination of software flaws (clause 3)
- iv. Application support (clause 4)
- v. Standard hotline (clause 5)

(b) Additional services

Furthermore, Business-Logics offers the following services to the CLIENT, over and above the services listed in clause 1a, by separate order and separate remuneration on the basis of Business-Logics' current price list:

- i. Installation, implementation
- ii. Briefing and training
- iii. CLIENT specific software adjustments

(c) System environment

Requirement for the service is that the CLIENT operates the contract software within the specified system environment.

2. Supply of new versions

(a) Scope of services

Business-Logics leaves the CLIENT new, enhanced versions of the contract software after being released by Business-Logics.

(b) New versions

New versions can eliminate flaws of previous versions and/or modify existing features and/or improve or include new features.

New versions may also be delivered to maintain interoperability.

(c) Exclusions

New versions are particularly not:

- Separately offered, additional functions of the contract software.
- A new development of the contract software with the same or similar functions on a different technological basis.

(d) Delivery

Delivery will be made by supply of the object code via download link or on a conventional storage media, inclusive documentation of the modifications.

(e) Rights granted

For new versions of the contract software, Business-Logics grants the same rights, inclusive any possible extensions, to the CLIENT as those the CLIENT was entitled for the original contract software.

(f) Adjustments of the system environment

As far as it is necessary for new versions of the software, the adjustments of the system environment have to be performed by the CLIENT. In particular, this concerns new versions of the operating system or other third-party software that is required to use the new version.

(g) Obligation to inspect and notice

Delivered versions will be immediately deployed and examined for non-conformity by the CLIENT. The CLIENT will immediately inform Business-Logics about any detected shortcomings.

3. Individual elimination of software flaws

(a) Scope of services

Business-Logics will eliminate the deficiencies notified by the CLIENT within a reasonable time.

(b) Service requirements

Requirement for the service is that the CLIENT uses the current version of the software within a reasonable period after authorisation by Business-Logics.

(c) Material defect

A material defect shall be deemed to exist if the contract software or its documentation is not suitable for use as described in the software's services description and the deviations are not only minor or impair the overall functionality only insignificantly.

(d) Documentation of defects and CLIENT notice

The CLIENT shall document occurring defects in an understandable manner and shall notify Business-Logics in writing immediately after their discovery.

(e) Response times

Business-Logics reacts upon material defect notices within the following response times:

Type of defect	Response time
preventing production	3 hours
other defects	1 day

Response time calculations are based upon office hours. Business Logics' office hours are from Monday-Friday 09:00 a.m. to 5:00 p.m. CET/CEST, except for holidays: New Year's Day (1st of January), Good Friday (two days before Easter Sunday), Easter Monday (the day after Easter Sunday), Labor Day (1st of May), Ascension Day (39 days after Easter Sunday), Whit Monday (50 days after Easter Sunday), Festum Corpus Christi (60 days after Easter Sunday), German Unification Day (3rd of October), All Saints' Day (1st of November), Christmas Eve (24th of December), 1st Christmas Day (25th of December), 2nd Christmas Day (26th of December), New Year's Eve (31st of December).

(f) Enabling defect analysis and resolution on-site by the CLIENT

- i. If required, the CLIENT will grant Business-Logics and its employees access to the areas, machines and to the contract software, as well as necessary computing times, at least during normal office hours, if possible, by prior agreement.
- ii. Unless it is obvious, which system component provoked the fault, the CLIENT will accomplish an analysis of the system environment together with Business-Logics, and, if necessary, involve third-party companies at its own expense.
- iii. For the time of work, the CLIENT provides a competent contact person, who has an overview of the CLIENT's overall system, may provide information on the usage of the software and the details of the fault, and is capable of performing test runs.

(g) Correction of faults

Business-Logics will eliminate known defects at its option by choosing one of the following actions:

- i. Providing a patch/bugfix, which the CLIENT installs by itself.
- ii. Providing a new version, which no longer contains the fault.
- iii. Providing action statements to the CLIENT to work around the issue or the defects. The CLIENT will implement these action notes by competent personnel, where reasonable.
- iv. Correction of faults on-site only takes place if none of the above measures seem to be a promising approach.

(h) Invoicing at cost due to unsubstantial defect notices

In case that a defect reported by the CLIENT does not exist, or the defect is not a result of the contract software, Business-Logics is entitled to invoice the cost incurred with the analysis and other processing according to the current prices for services of Business-Logics, provided that the defect notice was made as a deliberate act or due to gross negligence.

4. Application support

Business-Logics advises and assists the CLIENT about common application problems in conjunction with the contract software by short term answering relevant questions by telephone, email, fax or in writing.

This assistance is limited to Software licensed or sold by Business-Logics and does not cover problems relating to the technical environment of the CLIENT and/or to third party applications.

5. Hotline

Business-Logics provides a hotline for reporting material defects.

This hotline is available at +49 2103 33993-33 within Business-Logics' business hours, see section 3e.

6. Access to customer care information

The CLIENT may access the customer care area of Business-Logics' web site to report bugs or check the state of previously reported problems. The customer care area is available at <https://www.bankrechner.org/bugzilla>.

7. First-Level-Support by the CLIENT

(a) Central contact point at the CLIENT

The CLIENT will establish a central contact point for Business-Logics, that is comprised of employees with in-depth knowledge (administrator skills) about the contract software.

(b) Tasks of the central contact point

The central contact point of the CLIENT coordinates requests of the CLIENT (application support requests and material defect notices).

At the contact point, the employees of the CLIENT will perform a first problem analysis (user problem or defect). If a solution is already known at the CLIENT's site, the problem will be solved internally.

(c) Request for maintenance services

Only if a problem cannot be solved by the central contact point of the CLIENT, the central contact point of the CLIENT will contact Business-Logics. Other coworkers of the CLIENT are not entitled to request services based on this contract.

(d) Cooperation between the central contact point and Business-Logics

The central contact point of the CLIENT works closely together with Business-Logics, in particular to resolve user problems and to analyze defects. The maintenance services will be supported by:

- coordinating the communication of Business-Logics with the CLIENT's individual institutions,
- provision of copies of the software that possibly has a defect, if necessary for the purpose of examination by Business-Logics,
- the transmission of test data and test cases,
- the communication of the circumstances under which problems have occurred.

8. Material defects and defects of title

(a) Material defects

Material defects will be eliminated as part of this maintenance contract in accordance with paragraph 3.

- (b) Defects of title
- It constitutes a deficiency in title if required rights for the contract-based services could not be legally granted to the CLIENT.
- The CLIENT will notify Business-Logics immediately should a third party assert a claim for the breach of using the services. The CLIENT will also leave the defence against such claims to Business-Logics and also provides every reasonable support.
- In particular, the CLIENT provides all necessary information about the use and any editing of the software as far as possible in writing, and forward any required documents.
- In the event of a prohibition against use of the software resulting from an defect of title, Business-Logics may rectify the defect at its option by choosing one of the following actions:
- either obtain the right for the CLIENT to continue usage of the software or of any item of the software at issue,
 - or modify the program in order to avoid such infringement,
 - or replace it with an equivalent item which is not subject of an infringement action,
 - or reimburse the CLIENT of the price paid and of the damages suffered.
- (c) Reduction or cancellation with compensation
- If the removal of the material defects or defect of title is not successful within a reasonable period, the CLIENT shall be entitled to set a last grace period, and in the event of this period expiring without result, to either reduce the maintenance fee or to cancel the agreement with extraordinary notice. Such extraordinary termination can be ruled out only for a significant defect.
- In the event of such a legitimate, extraordinary termination for unfixed major defects, the CLIENT shall be entitled to compensation of damage for the faulty performance of Business-Logics; for the payment of damages the restrictions according to clause 10 apply.
- (d) Termination
- Business-Logics is not obliged to remove material defects and defects of title reported after termination of this maintenance contract.
- (e) Fraudulent intent/guarantee
- In case of fraudulent intent and undertaken guarantees by Business-Logics, the statutory provisions shall remain unaffected.
9. Exclusion from software maintenance
- Errors resulting from any of the following occurrences shall not be addressed in hereunder:
- accidental fire, water damage, storms, lightning,
 - moving of the equipment,
 - failure of one of the elements composing the software environment (operating system, other application, network system, ...),
 - abnormal use which is not authorized within the scope of the user license, error of manipulation, or failure to comply with user instructions or specifications set out and furnished by BL, particularly in the user documentation,
 - failure by the CLIENT to comply with one of its obligations under this agreement.
10. Liability
- Scope of the regulation Business-Logics is liable for damages from any legal argument to the extent of these provisions only.
 - Limitation of liability
- Notwithstanding anything to the contrary, under no circumstances will Business-Logics be liable for indirect, special, consequential or incidental losses or damages (including, but not limited to loss of profits, damaged data, failure to achieve cost savings, loss of equipment or systems, or the failure of or increased expense of operations) of any kind, regardless of whether any such losses or damages are characterized as arising from breach of contract, warranty, tort, strict liability or otherwise, even if such damages are foreseeable or Business-Logics has been advised of the possibility of such damages.
- The exclusion shall not apply for liability for gross negligence or deliberately inflicted damage and shall not apply in cases of injury of life, body or health if this has been caused by a negligent breach of duty from Business-Logics.
- Requirements, which are based on indispensable laws for product liability, remain likewise unaffected.
- Product Liability Law
- Liability according to the product liability law remains unaffected.
- Contributory negligence
- In the event, that the damage is caused by Business-Logics as well as by the CLIENT, the CLIENT's contributory fault has to be taken into consideration.
- Loss of data
- The CLIENT is responsible for regular backup of his data.
- The liability for loss of data is limited to the cost of recovery of the data that would have been incurred if a regular production of back-up copies appropriate to the risk involved had been made.
- In case of data loss caused by Business-Logics, Business-Logics is only liable for the cost of data reproduction from the backup copies provided by the CLIENT, and for the recovery of data which would have also been lost in case of regular data backup only.
- Disclaimer
- Any further liability, in particular liability without fault, under this agreement is excluded.
11. Force majeure
- An event of force majeure shall suspend the obligations of the Parties. Initially, an event of force majeure shall suspend the performance of the agreement. If the event of force majeure shall remain in effect for more than one month, the Parties shall meet to determine how to pursue their relations. If the event of force majeure shall remain in effect for more than three months, this agreement shall be automatically terminated. It is expressly agreed that the following shall be considered as events of force majeure or unforeseen events: general strike, or sectoral strike within the profession, blockage of transports or of mail, fire, storm, any total or partial restriction or suppression of any kind of governmental authorization, total or partial blockage of means of telecommunications, etc.
12. Effective date
- The agreement shall take effect on the date of the CLIENT's signature.
13. Period covered, Maturity
- The period covered starts at the effective date and is due (pro rata exact to the day) with invoicing. The first maintenance period will end at December 31st following the effective date. Following maintenance periods will cover a whole calendar year, starting on 1st of January, and are due with invoicing in January. Payment for additional services is due with invoicing.
14. Termination
- Notice of termination must be given in writing. A fax complies with this form, but an email does not.
 - The deadline for a proper termination is three months to the 31st of December of each calendar year. The contract may be terminated for the first time in the year after the effective date.
 - The right for an extraordinary termination of the contract for important reasons remains unaffected.
- An important reason particularly exists in cases of:
- Termination by the CLIENT due to a faulty performance of Business-Logics according to clause 8c.
 - Termination by Business-Logics, in case that the CLIENT's payment is delayed by more than one month.
 - If the contracting partner comes into a financial collapse, if a judicial insolvency proceeding is pursued, or if initiation is rejected due to insufficiency of assets, or a dissolution deletion of the contracting partner from the trade register has been requested or fulfilled.
15. Price adjustments
- Business-Logics may adjust the flat rate service fee as well as the price list for additional services at the beginning of following periods covered. Business-Logics communicates a change of the remuneration at least two months before in writing to the CLIENT.
- In case of an increase by more than 10%, the CLIENT is entitled to cancel the maintenance contract at the end of the current period covered, within a month after receipt of the increasing maintenance notice.
16. Data processing
- The CLIENT agrees, that the data transmitted electronically or by other means may be collected, stored and processed by computer systems, or otherwise by Business-Logics for the purpose of concluding and processing this contractual relationship. The CLIENT in particular agrees to receive emails by Business-Logics in the context of electronic invoicing. In all other respects, our general privacy policy applies.
17. Election of domicile
- For purposes of the present agreement, the CLIENT and Business-Logics shall be considered to have elected domicile at their respective registered offices.
18. Applicable law/choice of forum
- The agreement, any amendments as well as all matters relating to the interpretation, construction and enforcement of this agreement shall be to both the substantive and procedural rules of the laws of Germany. International law, particularly the UN Convention on Contracts for the International Sale of Goods (CISG), is excluded.
- The CLIENT and Business-Logics declare their intention to attempt to resolve amicably any difficulty which might arise in connection with the performance or interpretation of this agreement.
- If the CLIENT is a fully qualified general merchant, a legal person under public law or a special fund under public law, the exclusive place of jurisdiction for all claims based on and due to this agreement as well as for all disputes arising between Business-Logics and the CLIENT is the registered office of Business-Logics. The same shall apply if the CLIENT has no general legal venue in Germany or if his residence or usual domicile is unknown when legal action is taken.
- The CLIENT and Business-Logics hereby irrevocably waive any objection which it may now or hereafter have to the laying of the venue of any suit, action or proceeding arising out of or relating to this agreement in the above mentioned jurisdiction, and hereby further irrevocably waive any claim that such jurisdiction is not convenient forum for any suit, action or proceeding.
- The failure by either party to enforce any of its rights under this agreement shall not be interpreted in the future as a waiver of such right.
19. Miscellaneous provisions
- The provisions of this agreement express the entirety of the agreement concluded between the Parties and supersede all prior proposals or agreements whether written or oral relating to the subject of this agreement. This agreement may be modified only by amendment signed by the Parties.
- All agreements, modifications, supplements, and the partial or whole cancellation of agreements shall require written form. This shall also apply to the modification or cancellation of the requirement for the written form.

Maintenance agreement

If one or more provisions of this agreement were determined to be invalid or unenforceable as a result of the application of a legal or regulatory provision or based on an enforceable judicial or administrative decision, the remaining provisions shall retain their effect and scope.

Place of fulfilment is Hilden, Germany.

Version: July 12, 2018