

GENERAL TERMS AND CONDITIONS (GT&Cs version_2.03)

§ 1 Scope of application

Unless the special terms for service agreements, standard software or for individual software and/or for software licence terms contain other regulations, the following Terms and Conditions shall apply.

The General Terms and Conditions (GT&Cs) for Bewotec Softwareentwicklungs- und Vertriebs GmbH (hereinafter referred to as Bewotec) shall apply for all one-off and continuous services of the same and its legal successors and/or after a merger with other companies as part of their entire business activities and regardless of the contractual classification.

The GT&Cs shall apply for all future business relations without another express inclusion being required. In this sense, the business relations of Bewotec (in addition to the special terms and conditions) always form the basis for it being active. With the first use of the services of Bewotec at the latest, these terms and conditions shall apply in their current applicable version, which can be downloaded from the internet at <http://www.bewotec.de/agb.html>. Contradictory terms and conditions shall generally not be acknowledged by Bewotec. Deviations from these Terms and Conditions shall only be effective if and inasmuch they are acknowledged by Bewotec in writing.

No verbal ancillary agreements shall be made. In individual cases, these shall require written confirmation to the customer by the management of Bewotec.

§ 2 Definitions

Hardware installation: Unpacking and installing the hardware, connecting to the electrical grid at the customer and execute a device test.

Standby time: Times in which Bewotec accepts (error) reports (usually the standard office hours of Bewotec).

Data protection: Proper data protection includes all technical and/or organisational measures to secure the availability, integrity and consistency of IT systems, including the data, programs and procedures stored on these IT systems and used for processing purposes. Proper data protection means that the measures taken in dependency of data sensitivity enable an immediate or short-term recovery of the status of systems, data, programs or procedures after identifying the impairment of the availability, integrity or consistency on the basis of damaging events; the measures include at least the creation and testing of the reconstruction ability of copies of the software, data and procedures in defined cycles and generations.

Data loss: Loss (deletion) or loss of the integrity and consistency of data.

Spare parts supply: Provision of hardware or/and software by Bewotec or an agent to fulfil contractual services.

Maintenance period: This is understood to be the limitation period in the sense of the legal provisions applicable at the time of concluding the agreement.

Hardware: Device or machines, including their optional additional equipment, in accordance with the manufacturer specifications, which are listed in the agreement; such devices or machines are generally specified in greater detail by all manufacturers via order numbers (type name added by model name, if applicable).

Maintenance: Measures to secure and maintain the desired state as well as detect and assess the actual state.

Material costs: Bewotec's costs for the use and consumption of raw, auxiliary and working materials as well as other products as part of the service provision.

Ancillary costs: Bewotec's expenses that are required for the provision of supplies and services. They are not included in the agreed remuneration and are neither travel nor materials expenses.

Response time: Period in which Bewotec must start with the maintenance work. It starts upon the receipt of the fault report within the agreed service time and runs exclusively during the agreed service times.

Travel expenses: Bewotec's expenses for travelling to the location of the agreed service, insofar as this is different from the office, which is generally not part of the costs for on-site staff deployment. Expenses might be: travel expenses, accommodations, ancillary travel expenses etc.

Written form: in accordance with §§ 126, 126b, 127 German Civil Code.

Copyrights: in particular, industrial property rights and copyrights.

Standard software: Software (programs, program modules, tools etc.), which was developed for the needs of a majority of customers in the market and not specifically by Bewotec for the customers, including the associated documentation.

Preinstallation: Preinstallation of (standard) software on certain hardware before delivery.

Manual: Description of the relevant products supplied, provided to the customer either in printed or electronic form by Bewotec. Bewotec shall provide the current version applicable upon conclusion of the agreement in an amount as contractually agreed. If more copies or a more up-to-date version are required, the customer must always request and pay for them separately

§ 3 Formation of the agreement

Bewotec's range is subject to change as regards prices, quantities and delivery deadlines, unless they are expressly labelled in writing as binding. Technical modifications remain reserved at the company's discretion. The product descriptions of Bewotec are to be assessed as a request for proposals.

Inasmuch as there are deviations between the agreement concluded in writing and the order confirmation from Bewotec, the content of the order confirmation shall take precedence. The rules on commercial confirmation letters shall apply accordingly.

An agreement with Bewotec can also come about if Bewotec starts providing the service ordered by the customer.

Bewotec reserves the right to always verify the customer's solvency. Bewotec may withdraw from the Agreement if a significant deterioration of the customer's economic conditions comes about, in particular if substantial restraints or other enforced measures are initiated by it or if insolvency proceedings are opened. This shall not apply if the customer provides an agreement fulfilment guarantee within five working days of the written request by Bewotec.

§ 4 Remuneration

If there is no separate agreement, the prices for Bewotec's services and software products shall be determined in accordance with the price lists applicable at the time of concluding the agreement. These can be provided by Bewotec upon request. Bewotec reserves the right to also make these price lists available on their website www.bewotec.de. With the arrival of a new price list, all previous price lists including their content shall become void.

Bewotec reserves the right to raise the prices or fees for service agreements whose term is already more than 12 months, 3% of the contractually agreed service fee once per year.

§ 5 Repayment

If the customer makes payments on account, they will be booked in accordance with §§ 366(2) and 367 of the German Civil Code. If a different repayment provision applies for the customer, Bewotec may reject the payment.

§ 6 Reservation of proprietary rights

Bewotec reserves the proprietary rights to all (standard) software (inasmuch as it was supplied in the form of data carriers like CDs, CD ROMs etc., dongles or the like, in addition to installation and operating instructions) or hardware supplied to the customer until the payment of all claims existing at the time of delivery or claims arising later from the business relationship or/and on other legal grounds. At the request of the customer, Bewotec releases securities if the value of the security ownership does not exceed the value of the balance existing at the time of the claim by more than 20%. If the customer is in arrears, the claiming of the reservation of title by Bewotec shall not be regarded as withdrawal from the agreement, unless Bewotec expressly states this.

The customer may only sell goods subject to retention – if contractually authorised to do so – in normal business transactions and as long as it is not in arrears. The claims from resale shall be handed over to Bewotec by way of assignment. They are used in the same scope to secure the goods subject to retention. The customer, as long as he fulfils his contractual obligations, shall be entitled to collect these claims. The amounts collected must be transferred to Bewotec immediately.

When Bewotec enforces its reservation of proprietary rights, the right of the customer to resell the software/hardware shall become void. Bewotec reserves the right to interrupt the use of the software for this case. Immediately after settling the open claims, Bewotec shall send the customer a new licensing file in the sense of § 11 GT&Cs. Otherwise, all program copies made by the customer must be deleted immediately. Hardware parts are to be returned to Bewotec at the expense of the contract partner upon the enforcement of the reservation of proprietary rights. The contract partner is obligated to report within two weeks from enforcing the reservation of proprietary rights in what scope the deletion was carried out.

§ 7 Delay

In the event of late payment and/or deferral, interest shall be owed for eight per cent above the current base rate. The interest rate must be set higher or lower if Bewotec has a higher load or the customer a lower load. The claiming of any further delay damage remains unaffected by this. For every non-used or returned debit note, the customer shall refund Bewotec the costs arising in full. Bewotec may instead claim a cost lump sum of EUR 7.50 without presenting the damage/expenses for every such case. The option remains open to the contract partner to set out a lower or no damage.

If debit note payment is granted, the customer is obligated to inform Bewotec of any changes to their bank details immediately.

Objections against fee settlements of Bewotec must be levied immediately on being sent. The absence of timely objections is regarded as authorisation, unless the correctness of the invoice is obvious or significant (more than 5% of the order volume). The parties agree that a timely objection is generally not given if more than five working days have passed after receipt of the invoice. The parties assume that invoices sent within Germany are generally received three working days after being sent. It is up to the customer to disprove this receipt assumption. Services are settled at time intervals, which Bewotec specifies at its discretion. All amounts are exclusive of the relevant applicable statutory VAT. If the customer is not subject to VAT, they must report their VAT Reg. No. to Bewotec upon placing the order. If the customer violates this obligation, they must bear the interest damage resulting from the delay in accordance with the above default interest rate. In the event of default with a major part of the invoice amount or the danger of the payment claim from Bewotec due to a worsening of the asset circumstances of the customer in the sense of § 321 of the German Civil Code, Bewotec shall be authorized to immediately issue all claims. The customer shall be regarded – in the sense of an instalment payment agreement – in default with a significant part of the invoice amount if they are late in paying two due instalments.

§ 8 Prohibition of assignment

The customer may, subject to § 6, only assign to third parties rights from the relevant contractual relationship with the prior written consent of Bewotec.

§ 9 Application of the DIN norms

If, during the processing of this contractual relationship between Bewotec and the customer, disagreements arise on the content of IT terms and symbols, quality requirements, format requirements or the like, the observance of the relevant DIN norms applicable at the time of concluding the agreement shall be regarded as agreed.

§ 10 Hotline consulting

The right to telephone hotline consulting shall be acquired by the customer only when concluding a corresponding service agreement. In addition, Bewotec's special terms and conditions for service agreements shall apply.

§ 11 Release and/or lic code

The customer shall receive from Bewotec a licence code (lic. file) to release the software or/and use other services of Bewotec. If this file is lost or destroyed, new additional licence(s) at the valid prices for all programs and/or other services permitted on this file must be acquired. Every program change of the lic File as well as the other Bewotec software, in particular to run it without a licence code, i.e. for pirate copies, is prohibited.

(Culpable) breaches against this authorise Bewotec to impose penalties on the customer. Subject to a relevant court appropriateness test, the penalty is at least 50% of the order amount.

§ 12 Trademark rights

The supply of licensable software is carried out in accordance with supplemental separate agreements to be concluded under the software licence terms specified there. All existing and future copyright and/or commercial trade mark rights to the programs sold by Bewotec and all programs, program parts derived there from or documents created in this

context, including to quotes, drawings and other offer parts shall remain with Bewotec. The customer shall be liable to Bewotec for all damage resulting from the breach of the above obligations. In the event of breach, Bewotec may – unaffected by additional compensation claims – claim a contractual penalty in the amount of at least 5% of the purchase price and/or licence fee for the relevant overall program without any damaged caused having to be proven individually by Bewotec. All programs, software and manuals provided by Bewotec are protected by copyright and ancillary copyright law. The granting of any usage right requires the special written approval of Bewotec. If a third party makes claims against a customer for the breach of trade mark rights by software supplied by Bewotec and if the usage of the software is restricted or prohibited by this, Bewotec shall be liable as follows: Bewotec shall at its discretion and at its costs either replace or change the software such that it does not breach the trade mark right, but mainly corresponds to the agreed function and service features in a way as is acceptable to the customer or release the customer from licence fees for the usage of the software against the trade mark rights holder or third parties. If Bewotec fails to achieve this at acceptable conditions, Bewotec shall recall the software and refund the price to be paid by the customer less an amount taking into account the time of using the software. In this case, the customer must return the software to Bewotec. The conditions for the liability of Bewotec are that the customer immediately informs Bewotec of the claims of third parties, does not recognise the alleged trademark rights violation and all disputes, including any arrangements out of court, to Bewotec or conducts them in agreement with Bewotec. The necessary court and lawyer costs arising for the customer from the legal defence shall be borne by Bewotec. If the customer terminates the use of the software for damage limitation or other good cause, then they are obligated to notify the third party that the termination of usage does not involve any recognition of the alleged trademark right violation. Inasmuch as the customer is himself responsible for the trademark right violation, claims against Bewotec shall be ruled out. Further claims of the customer due to a breach of trademark rights of the third parties shall be ruled out. This exclusion shall not apply in the event of intent or gross negligence.

§ 13 Storage of business data, confidentiality

Order processing is carried out at Bewotec with the help of automatic data processing. The customer shall authorise Bewotec to process data that becomes known under contractual relations and is necessary for order processing. The customer shall also agree that Bewotec also uses the data it receives from the business relationship in the sense of the data protection act for business purposes of Bewotec within Bewotec too. The invoice (or delivery note) shall apply in this sense and in particular as notification of §§ 19a, 33 of the German Data Protection Act.

Unless expressly agreed otherwise, the information submitted to Bewotec in the context of orders shall not be regarded as confidential.

§ 14 Delivery

Delivery dates or terms are generally not binding. A binding delivery date shall be regarded as agreed in the event of doubt if the purchase certificate contains the note “fixed”, “precise”, “exactly” or “at the latest”. The following applies as the general rule for cases of doubt: The delivery deadline is agreed in accordance with Bewotec’s expected performance and is understood to be subject to unforeseen and owed circumstances and obstacles, regardless of whether they arise at Bewotec or the manufacturer or its subcontractors if these circumstances make it unacceptable for Bewotec to make the delivery by the agreed date. If Bewotec is more than 2 weeks late with the delivery, the customer may withdraw from the agreement after an appropriate period of grace of which Bewotec is notified in writing. Inasmuch as the delivery delay lasts longer than 2 weeks, Bewotec shall also be entitled to withdraw from the agreement in full or part. The customer must be immediately informed of this; the return service must be refunded inasmuch as already provided by the customer.

For software developments or supplements, these times are extended to 6 weeks.

Delivery and service delays due to force majeure and/or events which make it very difficult or impossible for Bewotec to deliver, this includes in particular strike, lock-out, official orders but also a lack of cooperation of the customer, etc., even if this arises at the supplier of Bewotec or its subcontractors, shall not be the responsibility of Bewotec even in the event of dates and terms agreed as binding.

They shall also authorise Bewotec to delay the delivery by the duration of the obstacle plus an appropriate starting time or to withdraw from the agreement in full or part due to the not yet fulfilled component.

Bewotec is authorised to deliver modified or adjusted contractual products in deviation from the order of the customer in the standard trading or circulation scope if the modification and/or deviation is acceptable taking into account the customer’s interests.

The observance of the delivery and service obligations by Bewotec shall require the timely and proper fulfilment of the customer’s obligations. Bewotec shall be entitled to make partial deliveries and partial services and invoice them at any time. If the customer is delayed in accepting, Bewotec shall be entitled to demand compensation for the damage arising;

on the arising of the acceptance delay, the risk of any deterioration and possible loss shall be transferred to the customer.

§ 15 Exclusion and/or limitation of liability

The liability of Bewotec for negligent violations of obligations shall be ruled out, unless damages from the injury of life, body or health or guarantees are affected or claims under the product liability act are affected. The liability for the breach of obligations whose fulfillment is a requirement for the proper execution of the agreement (cardinal obligations) and whose fulfillment the customer may rely regularly shall also remain unaffected. The liability shall be limited to contract-typical and foreseeable damage for property and asset losses. The above shall also apply for the violation of the obligations of Bewotec's vicarious agents and assistants.

§ 16 Reference to liability insurance

Bewotec has liability insurance to cover the contract-typical and foreseeable damage, for which Bewotec is responsible under the above principles. If the customer proves such damage, Bewotec shall assign its cover claim with the liability insurance to the customer to fulfill the compensation claims of the customer. As long as the customer has not claimed the liability insurance of Bewotec in court, no liability of Bewotec can be considered. This shall not apply if the reference to the claims against the liability insurance would encumber the customer with unacceptable costs and/or risks. In this case, Bewotec shall be directly liable for the contract-typical foreseeable damage.

§ 17 Claim and exclusion terms

If a compensation claim is not enforced in court within three months – starting from the final rejection of the damages by Bewotec – it shall become invalid. In the events of referring to the liability insurance, the statute of limitation shall not start until the liability insurance is unsuccessful enforced in court.

§ 18 General obligation to notify and cooperate

The customer is obligated to immediately notify Bewotec in writing of identifiable defects, damage and/or faults. The parties agree that an immediate notification is regularly not given if more than three working days pass between detecting the fault, damage and/or failure and the receipt of the notification. The notification obligation shall not apply if the fault, the damage and/or the failure are apparent to Bewotec.

If the customer learns of circumstances, which substantiate at least the suspicion of unauthorised access of third parties to the servers of Bewotec, Bewotec must be notified immediately. If the customer culpably fails to provide notification, it shall be liable to compensate Bewotec for the resulting, typically foreseeable damage arising there from. Inasmuch as Bewotec was not able to rectify the situation due to a failure to notify, the customer shall not be entitled to demand a reduction of the usage fee and/or damage and/or expenses reimbursement and/or terminate extraordinarily without determining a suitable notice period.

§ 19 Data loss

If data is lost, Bewotec shall be liable for the expenses required to restore the data during the orderly data backup (regular and danger-equivalent creation of backup copies) by the customer. In the event of slight negligence on the part of Bewotec, this liability shall only arise if the customer has performed an orderly backup immediately before the measure resulting in the data loss.

§ 20 Disclaimer of warranty

In the event of purchasing used items, the customer confirms that the goods delivered were in immaculate condition when being handed over.

In the event of a warranty event – defect of quality or title or/and the lack of property (ies) guaranteed – Bewotec shall be entitled to rectify or/and make a replacement delivery at its discretion. The customer's right to withdraw from the agreement and/or demand a reduction after the fruitless expiry of the rectification period shall remain unaffected.

For services of Bewotec or its (trade) representatives, which are expressly named as a "favour", "not charged" or the like, only to be considered as such a service based on the circumstances, any warranty shall be ruled out. The liability

for favours shall be governed by §§ 521, 599 of the German Civil Code. Liability shall be ruled out in the event of improper use or excessive use.

§ 21 Transport damages

The customer must immediately report any transport damage to the freight forwarder in writing and send Bewotec a copy of the correspondence.

Unless agreed otherwise, Bewotec shall be entitled but not obligated to insure the goods to be forwarded at the expense of the customer against transport risks of all sort. This, as well any assumption of the forwarding costs has no impact on the transfer of perils.

§ 22 Offsetting/right of retention

The customer may only offset claims from Bewotec against uncontested claims that are ready for decision and/or legally effective. It is entitled to claim the right of retention, be it in accordance with § 273 of the German Civil Code or § 369 of the German Commercial Code, only for counterclaims from the same contractual relationship. Due to faults, the customer may only retain payments to an acceptable degree taking into account the fault and only if the fault is proven without a doubt.

If on the part of the customer there is a delay due to a due service, which Bewotec may demand to be fulfilled, Bewotec shall have a right of retention upon entry of the delay, even in the event of an objection in this respect. If the customer provides the legally possible security, the objection shall be regarded as not lodged.

§ 23 Subject to change

Bewotec reserves the right to make standard changes to the services it owes. Non-standard changes shall be permitted if they are of greater value to the contract partner. Changes shall also only be made to an extent as is acceptable for the customer taking into account the interests of Bewotec.

§ 24 Advertising

The customer agrees to be contacted by Bewotec as regards products or/and services or/and other information if it must be assumed that this contacting meets the assumed interests of the customer.

§ 25 Written form and completeness clause

Changes and/or supplements to the agreements must be made in writing. § 26 Change

of the contract partner

Bewotec reserves the right to transfer rights and obligations from continuing duties towards the customer to third parties. If Bewotec uses this, the customer shall have the right to extraordinary termination. The termination is only effective if it is made after exercising the right by Bewotec and with registered mail.

§ 27 Contractual penalty

The customer is obligated not to recruit employees of Bewotec, with which it comes into contact, for itself and/or third parties, or to use their services outside the contractual relationship existing between the customer and Bewotec. This obligation shall continue to exist after terminating the contractual relationship for a period of two years. In the event of infringement, the customer shall pay a contractual penalty of EUR 5,000. The objection of the continuation of offence is ruled out. The claiming of further compensation remains reserved. It shall be the matter of the customer to prove to Bewotec a lower or/and arising of no damage.

§ 28 Place of Performance

The place of performance shall be Rösrath. This shall also apply

for the liability of the customer. § 29 Jurisdiction/applicable law

Cologne shall be the place of jurisdiction. This shall also apply for documents, exchange and cheque processes. However, Bewotec is also entitled to file suits at the courts of the customer's place of registration as specified by law. German law shall apply to all contractual relationships, with the exclusion of the Vienna purchase law.

SPECIAL TERMS FOR JACK PLUS / VERA SERVICE AGREEMENTS

§ 1 Object of the Agreement

The subject of the Agreement is the maintenance of Bewotec software. It includes the functions listed in the general service specification and must be performed on the contractually specified hardware on the contractually specified operating system. Not included in this are individual adjustments to Bewotec software or BOL or BOC files; if such and/or similar services are requested by the customer, it must make a corresponding separate and payable arrangement with Bewotec. As part of the Bewotec software maintenance, Bewotec shall provide the customer with software subject to a fee (e.g. updates). This software is released at irregular intervals at Bewotec's discretion and regardless of the payment cycle agreement. Computer hardware maintenance is not included in the service agreement.

§ 2 Hotline

The telephone help service (hotline) is available to the customer at the contractually agreed Bewotec hotline times. The customer agrees that this hotline is available on such telephone numbers, which cause higher connection tariffs. The hotline is usually only available for questions on products from Bewotec and/or products maintained by it. Bewotec is not obligated to respond to questions regarding the hardware and software of other manufacturers. Recalls by Bewotec as part of the hotline may be charged to the customer separately. Individual adjustments to Bewotec programs and/or BOL or BOC files shall not be settled by the Bewotec hotline.

§ 3 Obligation to cooperate

The customer shall support Bewotec in providing the contractual services in an acceptable scope. It shall, in particular, provide Bewotec with the necessary information and documents in full and in good time. Inasmuch as the customer knows the name and extension of the employee in charge, it shall add the name and extension of the employee in charge to every written notification for the purposes of accelerating the process.

§ 4 Contract term and notice period

The agreement is concluded for an unspecified term, but for at least 12 months and can be terminated by either party subject to a three-month notice period by registered letter as of the end of the year.

§ 4a Extraordinary termination

The right to terminate the agreement for good cause without observing the notice period shall remain unaffected. The parties agree that good cause, which entitles Bewotec to cancel the agreement extraordinarily in observance of a three-month notice period as of the end of a calendar quarter, is given if a module and/or product is no longer sold for technical reasons, in particular as regards technical progress.

§ 5 Payment

The corresponding lump sum must be paid by the contract partner in advance; i.e. no later than by the third working day of the calendar month preceding the use.

SPECIAL TERMS FOR TERMINAL SERVERS USAGE AGREEMENTS

§ 1 Object

Bewotec shall provide the memory required to use the Bewotec software solutions on one of its own and/or virtual memory servers and install the operating system required to use the software in order to enable the customer online usage and storage of commercial data. The loading of data as well as the installation of the support programs required for usage (browser, software to establish the dial-up connection) and/or the procurement of hardware components shall not be included in these terms. The customer is aware that Bewotec does not operate its own telecommunications network and does not provide internet access. For this reason, Bewotec shall not assume any responsibility for the success of accessing the internet. Anything else shall only apply if the faulty access is the responsibility of Bewotec.

§ 2 Usage

The customer shall be granted a usage right that is limited to the term of this Agreement. Unless another arrangement was made, accessing the proprietary and/or virtual server of Bewotec shall only be permitted for authorised computers of the customer.

§ 3 Transfer to third parties

If the customer transfers the access option to an unauthorised third person, it shall be liable to compensate any loss arising there from.

§ 4 Access interruption and limitation of liability

Bewotec may perform maintenance work and other technically necessary work to its network as well as its own servers during usage hours. Bewotec shall inform the customer of such work at least five working days in advance. Unplanned maintenance work shall be announced by Bewotec at least two working days in advance. If technically required work interrupts the access to the servers of Bewotec and Bewotec fails to announce this at least ten working days in advance, Bewotec shall only be responsible for the interruption insofar as Bewotec is responsible for this.

§ 5 Availability

The annual availability of own and/or virtual servers of Bewotec is 98.5 per cent. The monthly interruption must not exceed a total of four hours. Not included in the availability are agreed or announced maintenance work, events of force majeure as well as network failures of other operators or other causes of third parties, which result in a reduction of the availability stated and not the responsibility of Bewotec. The availability also depends on the agreed availability level. The following rule applies here: the higher the availability, the higher the usage fee. The three following levels are planned:

(1) working-day availability between 9 am and 6 pm

(2) working-day availability between 7 am and 9 pm and Saturdays between 7 am and 3 pm

(3) Permanent availability

Unless specified otherwise in the agreement, level (1) shall be regarded as agreed. A working day in the sense of the above provisions shall be calendar days between Monday and Friday with the exception of the national holidays of the Federal Republic of Germany and the state of North Rhine Westphalia. Saturday in the sense of the above provisions shall be Saturdays with the exception of the national holidays of the Federal Republic of Germany and the state of North Rhine Westphalia. Equivalent to the national holidays are the carnival days (Women's Carnival, Carnival Friday, Carnival Saturday, Carnival Monday and Carnival Tuesday). The provisions on access limitations and maintenance work shall remain unaffected by this.

§ 6 Data Protection

The customer is aware that the introduction and application of the usage of own and/or virtual servers of Bewotec may result in data on the individual work steps of its employees arising which may have control suitability in the sense of § 87(1)(6) of the German Employees Representation Act and may therefore be entitled to participate.

It is also aware that mutual communication is performed without encryption, for which reason it shall waive any claims, which may be based on the fact that third parties obtain illegal, access to electronic communication media.

§ 7 Relationship to software transfer and service agreements

The use of own and/or virtual servers by Bewotec shall only be permissible as long as and inasmuch as the customer has a valid licence to the Jack software. Furthermore, the use of a valid service agreement that is settled at the relevant time requires that the updating of the software and support services is not the subject of these provisions.

§ 8 Protection and due diligence obligations of the customer

The customer is obligated to abstain from anything that may cause damage to own and/or virtual servers of Bewotec. They are obligated to protect the contractual programs of Bewotec against unauthorised access of third parties. The customer is, in particular, obligated to keep access data and password secret.

§ 9 Block

If the customer violates their display obligations and/or protection and due diligence obligations, Bewotec shall be authorised to block the access. In accordance with proportionality and data protection provisions, Bewotec shall be authorized to withhold the data of the customer and to interrupt the usage of the software or/and the data provided by Bewotec, for instance for the CRS or event invoicing, if the customer defaults for two consecutive dates in a period which spans more than two dates on the payment of the usage fee totalling an amount that reaches the usage fee for two calendar months.

§ 10 Due date of the usage fee

The usage fee shall be paid by the customer in advance, no later than by the third working day of the calendar month preceding the usage.

§ 11 Exclusion of liability

With reference to § 15 of the general part of the GT&Cs of Bewotec, the parties shall agree that the liability for damage for initial faults and/or later faults of own and/or virtual servers of Bewotec is generally excluded.

§ 12 Term of the agreement

Unless another arrangement exists, a term of 24 calendar months shall be regarded as agreed. If neither the customer nor Bewotec cancels the agreement three calendar months before the end of its term, the term shall be extended by a further 12 calendar months. At the end of the term or on termination of the hosting agreement, Bewotec shall provide the customer with its data on separate, permanent data carriers. To this end, the parties shall agree a flat rate (see price list or Agreement), exclusive of statutory VAT.

§ 13 Termination

The right of extraordinary termination of this agreement for good cause is unaffected. The parties shall agree that good cause, which entitles Bewotec to terminate the Agreement extraordinarily, is given if the customer greatly and insistently violates their protection, due diligence and/or indication obligations despite Bewotec's warning in respect of this contractual violation, the customer defaults on the payment of the usage fee for two consecutive dates or on a not insignificant part of the usage fee or, over a period which spans more than two dates, defaults on the payment of the usage fee totalling an amount which reaches the usage fee for two calendar months as well as if the customer becomes insolvent.

SPECIAL TERMS FOR LICENCE AGREEMENTS REGARDING JACK PLUS / VERA

Jack Plus is a computer program of Bewotec, which in addition to travel agent back office functions includes a direct connection to service providers in the tourism industry (computer booking system - CRS).

§ 1 Object of the Agreement

The terms below apply to the transfer and usage of Jack Plus for a one-off charge. They do not apply to other services, such as installation, integration, parameterisation and adjustment of Jack Plus to the needs of the customer or for training measures.

§ 2 Type and scope of the service

Bewotec provides the customer with Jack Plus in accordance with the arrangements in the agreement.

Jack Plus was scanned with an up-to-date anti-virus program at a suitable time before delivery to the customer. Bewotec ensures that the scanning did not result in any indication of faulty functions in Jack Plus.

The orderly data backup is up to the customer. The maintenance of the functions of the CRS requires the conclusion of a service agreement and the thus connected procurement of updates to the travel agent back office standard software Jack Plus. It is pointed out that if updates are not procured, the CRS may experience errors. Bewotec also points out that the corresponding back/mid-offices are core items of the agreement. For this reason, the usage of the travel agent back office standard software shall remain unaffected by any impairment of the CRS.

§ 3 Usage rights

All rights, in particular the owner and trademark rights to the software shall be with Bewotec exclusively.

Jack Plus is provided to the customer for the intended use. The scope of the intended use as well as the type and scope of the usage rights result from the agreement. If the agreement does not state any other usage arrangements, Bewotec shall grant the customer the following rights:

the non-exclusive usage right,

the usage right in any system environment,

the permanent and generally irrevocable usage right.

Bewotec shall accept no liability for the software meeting the requirements and purposes of the customer or working with other programs and operating systems selected by it, unless expressly noted in the service specifications. The customer is obligated to ensure, with appropriate technical and organisational measures, the intended use of Jack Plus. The customer is authorised to create a copy of Jack Plus for backup purposes. This must be labelled as such on a movable data carrier. The copying of Jack Plus for the purposes of an orderly data backup is part of the intended use.

If the customer is entitled to transfer the usage rights to a third party and exercises this right, then they must impose their contractual obligations on the third party. The customer's usage rights shall become void on the transfer. All existing copies of Jack Plus must be deleted or returned to Bewotec. However, the customer may retain a copy for testing and archiving purposes, if this is specified in the agreement.

If the customer is granted usage rights only for a system environment defined in the agreement, the usage in another system environment shall require the consent of Bewotec. If a system environment defined in the agreement is not operational, usage in another suitable system environment shall be permitted temporarily until the fault is rectified.

The customer is obligated not to bring the Jack Plus version into a different code form through disassembly, reverse engineering or other measures, unless this is permitted under the copyright provisions.

Bewotec shall inform the customer of copy and usage protections included in Jack Plus, inasmuch as these are known.

If the software is used at several branches, sites, offices or locations, this shall be reported to Bewotec. For every branch, site, office or location, a software licence is required. If the software is used at several workstations, a network licence shall be required for every workstation. This licence rule shall also apply if the software is used on an own or third party user terminal server and accessed from several workstations and/or branches, whether this is via a remote desktop connection or another form of remote access via the internet.

§ 4 Extraordinary termination of the usage rights

If the customer severely violates the agreed usage rights or trademark rights of the rights holder, Bewotec may terminate the usage rights extraordinarily and with immediate effect.

In the event of termination, the customer is obligated to return the original of the Jack Plus standard software affected by termination, including the documentation, and to delete all copies or to return them to Bewotec. At the request of Bewotec, the customer shall provide a written statement on the deletion. The customer is entitled to retain a copy of Jack Plus for testing and archiving purposes, if a corresponding arrangement was made.

The other statutory provisions shall remain unaffected.

§ 5 Transfer of perils

The risk shall be transferred to the customer as soon as the shipment is handed over to the freight-forwarding person or other persons awarded by Bewotec with the shipment or has left the warehouse of Bewotec for shipment. If the shipment becomes impossible without the fault of Bewotec, the risk shall be transferred to the customer on selection and provision for shipment or notification of the readiness for shipment. The provisions of this paragraph shall also apply for return shipments after fault rectification or payable services.

§ 6 Delay

In the event of delay, the customer may set an appropriate period of grace for Bewotec with the explanation that it shall withdraw in full or in part from the agreement or demand compensation for non-fulfilment on expiry of this term. The

parties agree that an appropriate term shall normally be no longer than fifteen working days. If the customer demands compensation for non-fulfilment, Bewotec's obligation to pay shall be limited to 80% of the total price arising from the relevant agreement. Claims of the customer for compensation of lost profit shall be ruled out. These disclaimers shall not apply in the event of the intent or gross negligence of Bewotec or/and the assistants and/or vicarious agents.

§ 7 Warranty

The warranty claims of the customer shall not extend to the version of Jack Plus which the customer changes or which it does not use in the contractually agreed system environment, unless the customer proves that this usage was not the cause of the fault reported.

The requirement for warranty claims is the reproducibility or detectability of the faults. The customer is obligated to provide Bewotec with useful information; in particular, to forward immediately fault messages and to support Bewotec adequately for the fault rectification.

The customer must immediately examine the Jack Plus software delivered. The examination duration shall be guided by the customer's level of expertise. If the customer involves expert support, this specialist knowledge shall be added. Any faults must be reported immediately in writing, stating the information known by the customer and required for the identification. The customer shall take all reasonable measures to facilitate a detection of the faults and their causes.

The warranty term for faults to improvement services, workarounds or new deliveries shall also end on termination of the normal warranty period.

If the obligation to rectify errors is contractually not ruled out, the following shall apply: Bewotec may rectify the fault at its discretion through immediate improvement or new delivery. The interests of the customer shall be taken into account appropriately for the selection.

The warranty is subject to the last version of Jack Plus accepted by the customer. A new version must be accepted by the customer if this serves to avoid or rectify faults. The customer is not obligated to accept a new version if this cannot reasonably be expected because the new version differs significantly from the determinations in the agreement. If the customer does not accept a new version for this reason, its other rights regarding the improvement shall remain unaffected.

If Bewotec does not successfully complete the fault rectification within an acceptable term, the customer may set Bewotec a period of grace with the declaration that it shall reject the rectification of the fault after the unsuccessful expiry of this period. On expiry of the period of grace, the customer may demand the reduction of the remuneration, withdrawal from the agreement or – if the legal requirements are given – compensation. The customer must exercise its choice against Bewotec within a term of 14 calendar days.

This compensation entitlement shall be limited to 8% of the value of the service affected by the fault, for all compensation claims due to faults, however, to a maximum of 8% of the total price resulting from the relevant agreement.

If the obligation to rectify the fault is contractually ruled out, the other rights shall remain unaffected.

When providing a new version of Jack Plus, the relevant replaced version must be destroyed or handed over to Bewotec on demand.

§ 8 Obligations of the customer, prohibited actions

The customer is obligated to use the data and data collections properly, in particular by abstaining from any actions, which put the data security at risk, obligation to maintain the secrecy of the login and password, usage in observation of the works integrity. Changes to the data and systems provided are, inasmuch distorting, reforming or redesigning, not to be performed.

§ 9 Data security

The customer shall generally be responsible for data security itself. Inasmuch as the customer becomes aware that their user data may have become available to third parties, they are obligated to have access blocked. The customer bears the liability risk in relation to its customers. This shall apply in particular to third-party claims from travel agreement law.

§ 10 Duty of disclosure

If the provision of the remuneration depends on information from the customer, it shall provide complete and truthful information and ensure this.

§ 11 Data protection / confidentiality

We refer to the provisions of the German Data Protection Act (BDSG). Compliant to § 33 BDSG, it is expressly pointed out that Bewotec reserves the right to store the customer details relevant for carrying out the agreement. They are expressly permitted as evidence between the parties. The use for statistical evaluations and market analyses of or for Bewotec is permitted. Bewotec shall take all precautions to ensure the anonymity of the data stocks.

The customer agrees that its data shall be passed on by Bewotec to the direct service providers for release at the latter and that it releases the customer for booking trips/services inasmuch as this is required to create and maintain the complete functionality of the CRS.

§ 12 Content responsibility

Bewotec shall accept no liability for the correctness, completeness and relevance of the data provided by the service providers on their own and/or virtual servers.

Bewotec shall not accept liability for the continuation of contractual relations between Bewotec and individual direct service providers.

§ 13 Data transfer volume

The customer is obligated to use the option available via Jack Plus for the direct connection to the direct service providers as part of the normal business activities. The data transfer volume caused by the data download per connected workstation computer may not exceed an average bandwidth, which is specified by Bewotec at its discretion taking into account the relevant technical standards. It is the matter of the customer to have the exercising of Bewotec's discretion verified by the courts.

§ 14 Availability

Bewotec shall accept no responsibility for the uninterrupted access to the databases via the direct service providers.

§ 15 Subject to change

Bewotec reserves the right in supplement of § 23 of the general part of these GT&Cs to modify the data formats and the interface specifications. If Bewotec exercises this condition to an appropriate extent, this must be announced to the customer within an appropriate term.

Bewotec reserves the right to terminate the CRS. If Bewotec exercises this condition for good cause and to an appropriate extent, this must be announced to the customer within an appropriate term.

SPECIAL TERMS FOR LICENCE AGREEMENTS REGARDING DAVINCI

DaVinci is a software program from Bewotec, which can be used to process the activities of a tour operator.

§ 1 Object of the Agreement

The terms below apply to the transfer and usage of DaVinci for a one-off charge. They do not apply to other services, such as installation, integration, parameterisation and adjustment of the DaVinci application to the needs of the customer or for training measures.

§ 2 Type and scope of the service

Bewotec provides the customer with DaVinci in accordance with the arrangements in the agreement. Non-purchased modules may exist. The subsequent purchase of modules and licences impact on the service maintenance agreement.

DaVinci was scanned with an up-to-date anti-virus program at a suitable time before delivery to the customer. Bewotec ensures that the scanning did not result in any indication of faulty functions in DaVinci.

The orderly data backup is up to the customer.

§ 3 Usage rights

DaVinci is copyright and ancillary copyright protected as a computer program.

DaVinci is provided to the customer for the intended use. The scope of the intended use as well as the type and scope of the usage rights result from the agreement. If the agreement does not state any other usage arrangements, Bewotec shall grant the customer the following rights:

the non-exclusive usage right,

the usage right in any system environment,

the permanent and generally irrevocable usage right.

Bewotec shall accept no liability for the software meeting the requirements and purposes of the customer or working with other programs and operating systems selected by it, unless expressly noted in the service specifications. The customer is obligated to ensure, with appropriate technical and organisational measures, the intended use of DaVinci. The customer is authorised to create a copy of DaVinci for backup purposes. This must be labeled as such on a movable data carrier. The copying of DaVinci for the purposes of an orderly data backup is part of the intended use.

If the customer is entitled to transfer the usage rights to a third party and exercises this right, then they must impose their contractual obligations on the third party. The customer's usage rights shall become void on the transfer. All existing copies of DaVinci must be deleted or returned to Bewotec. However, the customer may retain a copy for testing and archiving purposes, if this is specified in the agreement.

If the customer is granted usage rights only for a system environment defined in the agreement, the usage in another system environment shall require the consent of Bewotec. If a system environment defined in the agreement is not operational, usage in another suitable system environment shall be permitted temporarily until the fault is rectified.

The customer is obligated not to bring the DaVinci version into a different code form through disassembly, reverse engineering or other measures, unless this is permitted under the copyright provisions.

Bewotec shall inform the customer of copy and usage protections included in DaVinci, inasmuch as these are known.

If the software is used at several branches, sites, offices or locations, this shall be reported to Bewotec. For every branch, site, office or location, a software licence is required. If the software is used at several workstations, a network licence shall be required for every workstation. This licence rule shall also apply if the software is used on an own or third party user terminal server and accessed from several workstations and/or branches, whether this is via a remote desktop connection or another form of remote access via the internet.

In any event, Bewotec shall have the right to use ideas, concepts and methods in relation to information processing, which it has acquired alone or jointly with the customer in execution of implementation, maintenance and support services, for the execution of work of a similar type for other customers, in as much as this refers to further developed Bewotec products.

§ 4 Extraordinary termination of the usage rights

If the customer severely violates the agreed usage rights or trademark rights of the rights holder, Bewotec may terminate the usage rights extraordinarily and with immediate effect.

In the event of termination, the customer is obligated to return the original of the DaVinci standard software affected by termination, including the documentation, and to delete all copies or to return them to Bewotec. At the request of

Bewotec, the customer shall provide a written statement on the deletion. The customer is entitled to retain a copy of DaVinci for testing and archiving purposes, if a corresponding arrangement was made.

The other statutory provisions shall remain unaffected.

§ 5 Transfer of perils

The risk shall be transferred to the customer as soon as the shipment is handed over to the freight-forwarding person or other persons awarded by Bewotec in doubt with the shipment or has left the warehouse of Bewotec for shipment. If the shipment becomes impossible without the fault of Bewotec, the risk shall be transferred to the customer on selection and provision for shipment or notification of the readiness for shipment. The provisions of this paragraph shall also apply for return shipments after fault rectification or payable services.

§ 6 Delay

In the event of delay, the customer may set an appropriate period of grace for Bewotec with the explanation that it shall withdraw in full or in part from the agreement or demand compensation for non-fulfillment on expiry of this term. The parties agree that an appropriate term shall normally be no longer than fifteen working days. If the customer demands compensation for non-fulfillment, Bewotec's obligation to pay shall be limited to 80% of the total price arising from the relevant agreement. Claims of the customer for compensation of lost profit shall be ruled out. These disclaimers shall not apply in the event of the intent or gross negligence of Bewotec or/and the assistants and/or vicarious agents.

§ 7 Warranty

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The customer must immediately examine the DaVinci software delivered. The examination duration shall be guided by the customer's level of expertise. If the customer involves expert support, this specialist knowledge shall be added. Any faults must be reported immediately in writing, stating the information known by the customer and required for the identification. The customer shall take all reasonable measures to facilitate a detection of the faults and their causes.

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If Bewotec does not successfully complete the fault rectification within an acceptable term, the customer may set Bewotec a period of grace with the declaration that it shall reject the rectification of the fault after the unsuccessful expiry of this period. On expiry of the period of grace, the customer may demand the reduction of the remuneration, withdrawal from the agreement or – if the legal requirements are given – compensation. The customer must exercise its choice against Bewotec within a term of 14 calendar days.

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If the obligation to rectify the fault is contractually ruled out, the other rights shall remain unaffected.

When providing a new version of DaVinci, the relevant replaced version must be destroyed or handed over to Bewotec on demand.

§ 8 Obligations of the customer, prohibited actions

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The customer agrees that its data shall be passed on by Bewotec to the direct service providers for release at the latter and that it releases the customer for booking trips/services in as much as this is required to create and maintain the complete functionality of the CRS.

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The customer is obligated to use the option available via DaVinci for the direct connection to the direct service providers as part of the normal business activities. The data transfer volume caused by the data download per connected workstation computer may not exceed an average bandwidth, which is specified by Bewotec at its discretion taking into account the relevant technical standards. It is the matter of the customer to have the exercising of Bewotec's discretion verified by the courts.

§ 14 Availability

Bewotec shall accept no responsibility for the uninterrupted access to the databases via the direct service providers.

§ 15 Subject to change

Bewotec reserves the right in supplement of § 23 of the general part of these GT&Cs to modify the data formats and the interface specifications. If Bewotec exercises this condition to an appropriate extent, this must be announced to the customer within an appropriate term.

Bewotec reserves the right to terminate the CRS. If Bewotec exercises this condition for good cause and to an appropriate extent, this must be announced to the customer within an appropriate term.

SPECIAL PROJECT FRAMEWORK CONDITIONS

The project framework conditions represent, depending on the individual case and in addition to the General Terms and Conditions as well as the relevant Special Terms for JackPlus/Vera Service Agreements or/and Special Terms for Terminal Server Usage Agreements or/and Special Terms for Licence Agreements regarding JackPlus/Vera or/and the Special Terms for Licence Agreements regarding DaVinci, the basic framework, in particular the approach of Bewotec, but also the obligations of the customer, in as much as corresponding special developments or/and services are affected

§ 1 Inquiry / quotes for projects / scheduled dates

The customer shall direct a written inquiry in the sense of a specifications sheet to Bewotec and inform it therein of its requirements for the scope of services and functions of the subject of an order in as detailed and comprehensive a way as possible. In particular, the customer is obligated to provide Bewotec with all information which will probably be relevant for the creation of a quote; i.e. on the area of activity, the later technical and local place of use of the special products or/and services, the employees or number of users, existing (IT) infrastructure, etc. If the customer states a delivery or/and service provision date as desirable in its inquiry, this must be regarded as binding.

Bewotec shall verify the inquiry of the customer for the actual or/and legal possibility or feasibility and provide it with a non-binding project quote based on its written inquiry. This shall include, amongst other things, a definition of the project aim, which is as precise as possible, in particular volume and sum details (as a fixed price, per expenses estimated or as working points “WP” or service level agreements “SLA”, etc.) to achieve this project objective and the first and non-binding information of the scheduled delivery or/and service provision dates. Bewotec shall, however, also refer to the requirement of concluding further service or/and maintenance agreements or/and the additional procurement of further hardware and software by the customer in it, if and in as much as it is able to do so based on the information available to it at this stage.

Bewotec reserves the right, in the event of express or/and implied changes to the project objective underlying the inquiry or/and the becoming known of circumstances which were not known or identifiable by Bewotec on the issue of the project quote, to change the project quote to the corresponding, appropriate scope.

The customer is obligated to verify the relevant project quote immediately upon transfer by Bewotec and to notify any change or/and modification requests or/and to point out to Bewotec any unclarity or discrepancies between the written inquiry and the project quote.

§ 2 Agreement conclusions

In accordance with the project quote approved by the customer or/and according to its change or/and modification requests, Bewotec shall create one or more purchase or/and licence or software maintenance and warranty agreement/s for the customer, in accordance with the requirement and scope of the jointly specified individual project under § 1. The object of these documents shall be, in particular, the purchase of hardware and software or/and modes of licence granting or maintenance and support rules by Bewotec.

§ 3 Development and completion of projects

Only on the basis of this contractual commitment, which is binding for the first time, but immediately on conclusion of the relevant agreements with the customer, Bewotec shall start to develop or/and test the software to be created or/and the services to be provided by it in the relevant scope to achieve the project objective.

After the – possible preliminary – completion of these activities, the delivery and installation shall be carried out by the customer or/and optionally by Bewotec.

Bewotec shall endeavour to meet delivery or/and service provision dates it has stated in as much as reasonably possible. If the customer sets a period of grace for Bewotec due to non-compliance, the parties shall agree that the period of grace is 6 weeks and that it shall start on receipt by Bewotec of the written period of grace set by the customer.

The customer is obligated to immediately subject the hardware or/and software provided to an “acceptance test”. In as much as it is not able to perform this alone or/and in full, it is obligated to use support – if applicable to be paid separately – from Bewotec or third parties qualified accordingly.

It is obligated, in particular, to accept or/and partially accept immediately after this test the software individually created in accordance with the specification procedure set out under § 1 and § 2 and supplied by Bewotec and to name the relevant points to Bewotec, which are still required to fulfill the contractually specified requirements. Bewotec shall then rectify them and the customer will immediately issue a project completion declaration to Bewotec on the successful rectification.

If the customer does not fulfill this obligation within a term of 1 week, the parties expressly agree that the software shall be regarded as accepted 3 weeks from the date of delivery. In this case, the customer shall be free to prove that a major fault made the use of the software unusable.

§ 4 Special customer obligations to cooperate

The customer expressly agrees to support Bewotec in all stages of the project development or achievement specified under §§ 1 - 3 in the required and reasonable scope by mutual consent. This shall apply as part of information or data processing requirements, as regards the appointment of contacts or/and the provision of premises and (IT) infrastructure in the premises of the customer – for instance for interim tests in the relevant development stage by Bewotec. Support shall generally be provided during regular business hours, in exceptional cases and in consultation with the customer it may also be provided outside these.

This shall also apply for the period after the (partial) acceptance of the software. In as much required to achieve the jointly established project objective, the customer is obligated to support Bewotec as part of a trial-and-error procedure to an extent as acceptable for both parties in the further steps.

The customer is obligated to observe confidentiality toward third parties as regards the information it learns over the entire period of the /and in connection with the project arrangement, project achievement in stages where applicable, or/and achievement and thereafter. If it breaches this obligation, Bewotec shall be entitled to impose an appropriate contractual penalty on the customer, subject to any damages or/and other compensation claims. The customer shall have the liberty to subject these to scrutiny by a court.

§ 5 Reimbursement of expenses / fees

If no agreement is concluded within 4 weeks of the project quote being issued, the customer is obligated to reimburse Bewotec for the justified expenses for the creation of the project quote after receiving an invoice.

The contractually agreed fees shall be paid by the customer in installments, i.e. generally 25% of Bewotec’s estimated expenses upon invoicing as stated on the project quote after issuing the project quote to the customer and an additional 25% thereof upon conclusion of the agreement. The remaining 50% of the estimated expenses or the part remaining after charging the first two installments of the remuneration actually invoiced shall be paid immediately on acceptance (§ 3(4)) and final invoicing by Bewotec.