

GENERAL CONTRACTUAL CONDITIONS - FOR SOFTWARE, SUPPORT AND UPDATES

of
Clarity & Success Software Limited (UK), The White House, The Hollies, 120 Newport Road, Stafford, ST16 1BY
- here in after referred to as **COMPANY**-

and
the relevant business / sales point / Store / Shop in Shop
- here in after referred to in the following **CUSTOMER** -

the following general contractual conditions apply to a usufruct for software licences and for the use of support and update services

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A. Software licence contract for CLARITY & SUCCESS Software

§ 1. Object of the contract

- 1) The following software licence contract forms the contractual agreement on the software licence of the CLARITY & SUCCESS merchandise management and point of sale system and its additional software (software developed by the CLARITY & SUCCESS Software GmbH and licensed for use by its customers, e.g. DTS, Retail Statistic, LST., etc.) with the CUSTOMER. The totality of the booked software is referred to hereinafter briefly as software or program
- 2) The CUSTOMER is himself responsible for the use and selection of the program and for the results obtained by means of this program.

§ 2. Licence

- 1) The CLARITY & SUCCESS Software GmbH, Bokeler Straße 28, DE-33790 Halle in Westphalia - Germany hereby grants to the CUSTOMER via COMPANY, in return for the licence fee (booking fee), a non-exclusive, non-transferable licence, limited in time to the term of this contract, for use of the software on data processing units according to the following conditions.
- 2) The licence shall be granted in this case after booking by calling off a licence key from CLARITY & SUCCESS Software GmbH via the Internet on the computer of the CUSTOMER on which the software is installed.

§ 3. Right of use of the program

- 1) The right of use (usufruct) shall herewith granted by CLARITY & SUCCESS Software GmbH entitle the CUSTOMER to use the software in the context of normal use in one of the software environments specified for this software version to the maximum extent of use indicated in the invoice.
- 2) Normal use shall include, as permissible actions of use:
 - a) the program installation and the creation of a back-up copy according to § 4;
 - and*
 - b) loading the program into the random access memory and its operation according to § 5.
- 3) The right of use does not extend to other types of use. In particular, the CUSTOMER is not entitled to reproduce, sell, lease the software or to transfer it outside the company of the CUSTOMER (including the authorised branches of the CUSTOMER) wirelessly or conducted.
- 4) As the copyrights of the Software is solely with CLARITY & SUCCESS Software GmbH, the CUSTOMER must not make any modifications to, translations or reproductions of the computer program, partially or temporarily, no matter of what type and by what means. Printing out the program code also constitutes an impermissible reproduction besides those rights, expressly granted within this contract. Only modifications are permitted for which, in good faith, the consent of the licensor is required according to Articles 5 and 6 of Directive 2009/24/EC of the European Parliament and the Council of 23. April 2009 concerning the Legal Protection of Computer Programs cannot be refused.

§ 4. Installation and back-up copy

- 1) The CUSTOMER may transfer a functional copy from the original data carrier to the number of mass memories specified in the invoice (or equivalent permanent data carriers) or data processing units (installation).
- 2) A further copy of the original data carrier or original download file is permissible for backup purposes provided that the CLARITY & SUCCESS SOFTWARE GmbH copyright instructions and, if applicable, further legal reservations and regulations are also reproduced simultaneously. The back-up copy must be identified as such. If this copy or the original is damaged or destroyed, a further copy may be made so that a maximum of two installable copies exist, one of which must be designated a back-up copy.

- 3) The CUSTOMER may make copies of the installed version as part of his general data back-up provided that are used only to restore the functionality of the EDP system in a timely manner in the case of data loss, and provided that it is ensured that these copies are not used for other purposes, particularly transfer.

§ 5. Loading and running the software

- 1) The right of use granted above entitles the CUSTOMER to use the software in the context of normal use in one of the software environments specified for this software version, to the maximum extent indicated in the invoice.
- 2) The CUSTOMER may therefore load and run the software in the working memory of the data processing units specified in the invoice.
- 3) The CUSTOMER shall be obliged to ensure, when loading and running the software, that the number of CPUs/data processing units on which the software may be used according to the invoice is not exceeded.

§ 6. Limits of use

- 1) The CUSTOMER may use the software on any hardware and in connection with each software if and as long as the system environment corresponds to one of the operating systems or their successors specified for the use of the software.
- 2) Transfer to other system environments is not permissible unless CLARITY & SUCCESS Software GmbH has to consent in good faith to a modification of the program according to a legal provision.

§ 7. Transferability

- 1) Transfer of the booked software is not permissible. Not even within a company to another branch.
- 2) If the company of the CUSTOMER is transferred with a continuation of the business in the same location, the CUSTOMER is entitled to transfer the booked usufruct. The software may only be transferred complete, as booked, i.e. the original data carriers and user documentation. The condition for this is that the transferee must declare that he agrees with these contractual conditions, and that the CUSTOMER informs the COMPANY immediately in writing of the transfer, indicating the exact data on the acquirer according to para. 3) below. Transfer within the meaning of these regulations is not the form-changing conversion of the CUSTOMER; However, a transfer occurs if the CUSTOMER sells or transfers, the company or the part of the company in which the software is used, in whole or in part, to third parties.

In the case of transfer according to the above provision, all the reproduced versions must be made completely and irreversibly unusable by the CUSTOMER. This also applies to the reproductions within data back-up, on the understanding that they must only be destroyed immediately if this is technically possible. If this is not possible, they must be destroyed at the earliest opportunity but no later than the next possible data back-up. However, the COMPANY wishes to point out that a functional copy of the software must be kept for the duration of the storage obligation to meet any national statutory storage obligations. However, the customer himself is responsible for compliance with this obligation.

- 3) The CUSTOMER must inform the supplier or the COMPANY immediately of the takeover and new rights holder. The new rights holder may obtain a licence key for himself if the vendor issues a declaration that he is no longer in possession of any reproductions of the software and that with immediate effect he will no longer be using his licence key. A fee based on the actual cost may be requested for the granting of the licence fee. The new legal owner is obliged to purchase a training course from the COMPANY as if he was the first software customer.

§ 8. Licence use fee, exceeding of performance coefficient

- 1) The licence use fee (booking) is charged by COMPANY in advance and is immediately payable, unless otherwise stated in the invoice. The release for use of the software will take place when payment is received (an Internet link is required) Prices are understood to be net of value added tax in the statutory amount at the time of delivery of the software.
- 2) If the extent of use agreed in the invoice is permanently exceeded, the CUSTOMER must inform the COMPANY of this immediately, but no later than four weeks after becoming aware of it. In this case a subsequent charge is due, with adjustment of the licence use fee calculated from the difference between the paid licence use fee for the extent of use provided for in the booking and the actual licence use fee. It is calculated according to the principles set out in Section D, General Conditions, § 1.
- 3) The non-use of individual components of the software or applications does not entitle the CUSTOMER to reduce the licence use fee (except in a case such as that described in Section A § 10).
- 4) The CLARITY & SUCCESS Software GmbH is entitled to carry out an audit of the actual use of the software on the premises of the CUSTOMER. In particular, the CLARITY & SUCCESS Software GmbH is entitled, in the manner appropriate to him, to obtain evidence of compliance with the permissible scope of use according to this contract, or to request it from the CUSTOMER. The CUSTOMER shall be obliged to provide the required assistance in an audit of the type described above.

§ 9. Obligations of the CUSTOMER

- 1) With the transfer of the software the COMPANY shall only make available the technical basis of the functions represented with the software; the CUSTOMER himself is responsible for the accuracy of the inputs and must check this, at least by random sampling, in an appropriate form. For this purpose the CUSTOMER must, in particular, conduct a plausibility check on the results achieved with the software so that the accuracy of his inputs and the processing processes controlled are regularly tested by him.
- 2) The CUSTOMER must continuous monitor, independently, whether the software version used by him complies with the legal requirements - in particular all the fiscal guidelines and tax regulations of his country.
- 3) The CUSTOMER recognises that the software, including all the components and, in particular, the documentation and all its copies or reproductions, constitute confidential information owned by CLARITY & SUCCESS Software GmbH. The CUSTOMER undertakes and shall make every effort to ensure that his employees and the users of the software also respect this confidentiality.
- 4) The CUSTOMER may neither transfer his rights and obligations according to this contract without the prior written consent of CLARITY & SUCCESS Software GmbH (in which case this consent may not be refused without justification), nor share their holding or control.
- 5) Subject to the exceptions expressly provided for in this contract, the CUSTOMER may not copy, transcribe, modify, supplement or adapt the software or parts thereof, for any purpose whatever, in good faith in connection with the authorised application of the program, in the computer, and must ensure that none of his employees, representatives or other users of the software do so either; any such unauthorised copy shall become and remain the property of the licensor as soon as it is made.

§ 10. Liability for defects (Warranty)

- 1) For the term of the contract the COMPANY warrants that the software will essentially conform to the contractually agreed functionality. Within the framework of the warranty CLARITY & SUCCESS Software GmbH or the supplier shall first of all attempt to eliminate the fault or have it removed by third parties. In the case of defective installation media, it will replace them. If the repair is not carried out successfully within a reasonable period, the CUSTOMER may withdraw from the contract or claim a reduction (reduction of the licence fee).

- 2) The CUSTOMER must examine the software delivered immediately and must inform the COMPANY or the supplier immediately in writing of any obvious defect, but at the latest within 4 weeks from delivery. If this period is not adhered to warranty claims relating to the defect concerned will not be accepted. Undetectable defects are not subject to this limitation.
- 3) As part of the removal of defects, however, the CUSTOMER must give an accurate explanation of the defect so that it can be established whether a defect actually exists. For this purpose the installation in which the defect has occurred, the operator, the data entered, the menu or program which was being processed, error displays and any attempts at removing errors, must be stated as accurately as possible within reasonable limits.
- 4) The liability for defects does not apply if and insofar as the software is treated improperly or is used in a deficient or incompatible hardware or software environment (the system conditions can be consulted at any time at www.clarity-success.com). The same applies if the CUSTOMER makes modifications without authorisation to the software or to the hardware delivered by the COMPANY on which the software from the COMPANY was installed.
- 5) In the case of gross negligence the COMPANY shall be liable according to the applicable legal provisions, and the limitations of liability below shall not apply in these cases.
- 6) In the case of simple negligence no liability is incurred if neither an essential contractual obligation (i.e. an obligation of the COMPANY without which the CUSTOMER would not have signed this contract, also called cardinal obligation) was violated, nor was there any injury to life and limb, or in the case of impossibility or delay.
- 7) If an essential contractual obligation has been violated, in the case of simple negligence, or in the event of impossibility or delay, the liability for injuries which are not the result of injury to life or limb shall be limited to injuries which were foreseeable at the time of conclusion of the contract and after the normal term of contract.
- 8) The COMPANY shall be liable to the CUSTOMER or a third party, regardless of whether this third party is associated with the CUSTOMER or not, for all indirect losses or damage which arises directly or indirectly from the rights and obligations granted/imposed according to this contract, but only in the event of gross negligence.
- 9) The limitation of liability agreed in Section 6 above shall also apply in the case of initial incapacity on the part of the COMPANY or supplier, in which case the liability shall be limited to the amount of the licence fee to be paid according to the invoice.
- 10) The CUSTOMER is aware that in the context of his duties of care, he must ensure that his data are backed up regularly, and that in the case of a presumed software fault he must take all reasonable additional protection measures.
- 11) The above limitations of liability shall also apply in favour of salaried and other employees of the COMPANY and in favour of the supplier of the program in the case of simple negligence.
- 12) However, these limitations of liability do not restrict the legal claims that can be made according to the Product Liability Act or an express warranty. The liability for damages arising from injury to life, limb and health resulting from a negligent violation of obligations on the part of the COMPANY or a deliberate or negligent violation of obligations of a legal representative or assistant of the COMPANY shall not be affected by the other limitations of liability.

- 13) The use of the software in an application or situation in which failure of the software could result in personal injury, extending to death or serious property or environmental damage, particularly in aircraft or other means of mass transportation, nuclear or chemical installations, life-maintaining systems, implantable medical devices, motor vehicles or weapon systems, shall be at the user's own risk, and the COMPANY will not guarantee either a fault tolerance or fault-free or interruption-free use in the situations mentioned. The COMPANY will not guarantee, expressly or tacitly, the suitability of the software for high risk activities.

§ 11. Relationship between warranty and maintenance

- 1) The COMPANY (or third parties appointed by it) shall make all reasonable efforts, under the warranty, to remove faults that occur in the program, except faults which have been caused by the deliberate or negligent actions of the user, his employees or representatives, after receiving notification of such a fault.
- 2) In addition, the updating of the booked software is based on the support and software maintenance conditions set out in Sections B and C. The COMPANY shall not be obliged to remove faults beyond the end of the booked software licence term. The removal of faults does not include any additional support services. These services are only performed according to the provisions of Sections B and C.
- 3) The CUSTOMER shall be obliged to use this new version instead of the previous version if this more recent version is at least equivalent to the previous contractual software. If for some reason the CUSTOMER fails to install and use this more recent version, the COMPANY may withdraw its maintenance support for this earlier version without further notice and without thereby violating the provisions of this contract.

§ 12. Hardware/software from other manufacturers

- 1) If the CUSTOMER uses hardware and/or software products from other manufacturers in order to use the CLARITY & SUCCESS software, in whole or in part, the COMPANY will not guarantee that the third party software will be compatible with the software supplied.
- 2) The licence regulations of the other manufacturers shall apply. The COMPANY shall have no influence on any supplementary conditions that may be imposed by the manufacturer concerned (e.g. release, certification). The selection and testing of the third party software used for his specific data processing system shall therefore be the responsibility of the CUSTOMER, because even if the additional software is recommended by the COMPANY, individual testing on the CUSTOMER's system is required.
- 3) If the COMPANY provides services relating to such third party software not supplied by the COMPANY, costs may be incurred by the COMPANY, the manufacturer or other third parties which the CUSTOMER is obliged to bear if he desires and commissions the service concerned. This shall apply, for example, to the CLARITY & SUCCESS interface with payment terminals that forms part of the software supplied: the manufacturer or provider of the payment terminals sometimes require additional certification which the CUSTOMER would have to apply for at his expense if he would like to use these payment terminals which do not have standard certification in conjunction with CLARITY & SUCCESS software. The CUSTOMER shall be obliged to obtain information on the interaction of the components before using the hardware/third party software.

§ 13. Export regulations

The software may be subject to the export laws and regulations of the European Union and/or the USA. The CUSTOMER shall be obliged to comply with all the national and international export laws and import laws and regulations applicable to the software. These include restrictions regarding the place of destination, the end users and end use.

§ 14. Place of settlement

The place of settlement for the delivery and for payment is the registered office of CLARITY & SUCCESS SOFTWARE GmbH or, in the case of a sale, the registered office of the authorised contract partner (a

contract partner is a sales partner, distributing licences for the CLARITY & SUCCESS software in its own name).

§ 15. Demo version, installation version

The data on the DEMO-Version are fictitious. Similarities and connections with the actual data are random. The data serve only to represent the program functionality. All data the CDs contained in the installation/productive version are regarded as assistance and must be individually tested by the CUSTOMER before use.

B. The data on the DEMO version are entirely fictitious

§ 1. Support

- 1) The following special contractual conditions apply to the /Support services which the COMPANY, sales partner or supplier makes available to the users of the "CLARITY & SUCCESS" program. The invoice gives a precise overview of which programs are supported by the hotline. They do not apply to the creation and updates of the above-mentioned programs.
- 2) The COMPANY can only guarantee optimum support if the CUSTOMER is using a current program version. Advice is only given to CUSTOMERS using the current program version. The CUSTOMER shall be obliged to record the most recent update or have it recorded by the COMPANY for a fee. Notifying CUSTOMERS of old program versions after the booking period is not a contractual obligation of the COMPANY.
- 3) The COMPANY can only guarantee the CUSTOMER optimum support if the CUSTOMER adequately trains the employees to whom he entrusts the task of requesting support services, as well as the person appointed as system administrator, both initially and in the event of software changes. There should therefore be at least one trained system administrator on the site.
- 4) All persons who have been trained by the COMPANY shall be registered with the COMPANY. If more than 50% of these persons change within the customer of the CUSTOMER, or if the system administrator changes, the required training courses must be updated or the booking fee is increased.
- 5) If it was stated by the CUSTOMER when booking that he is attending a course, he must in principle have attended it before the date of commissioning. If no training course is given by the end of a period of 30 days after commissioning of the software, the licence use fee will be increased retroactively to the price which would have been charged without attendance of a training course.

§ 2. Object of the contract

2.1 Execution:

- 1) The COMPANY shall take over the telephone, written, video, online or remote maintenance consultation and shall give notice of any problems arising in connection with the operation of the "CLARITY & SUCCESS" program.
- 2) As part of the preparation of the support service the CUSTOMER must explain as accurately as possible the support case for which he requires assistance. For this purpose it must be stated as accurately as possible the system on which a problem has occurred, the operator, the input data, the menu or the program which was being processed, error messages and any attempts at removing the errors. Compliance with this provision is in the interests of the customer as a description of the basis of the support request is already part of the support. The CUSTOMER is also obliged, in the case of support requests which may concern the database in his system, to create a backup.
- 3) The contact for support from the COMPANY is then made initially by completing the contact form made available by the COMPANY for this purpose. In this form the CUSTOMER requests information for the support case, on the basis of which the CUSTOMER is directed to the next steps in the support service (the method and form of support varies according to the service booked).

- 4) As part of the existing services the COMPANY shall issue recommendations on eliminating problems that arise or on identifying possible error sources. To this extent the COMPANY does not therefore guarantee success. The obligation to pay the agreed fee shall continue even if problems that have arisen or possible error sources cannot be removed or identified because of the recommendations. Rights assigned to the CUSTOMER in the case of defects in the "CLARITY & SUCCESS" program arising from the warranty shall remain unaffected.
- 5) For the support to be provided the CUSTOMER is given a password by the COMPANY. The password must not be divulged to third parties and must be stored protected from access by third parties. Furthermore, the CUSTOMER is obliged to store or transmit passwords on digital media and in LAN and WAN and radio networks in encoded form only.
- 6) The password can be changed by the CUSTOMER in the contract management area. It is possible to reset the password; the new password is then transmitted to the system administrator appointed by the CUSTOMER. Passwords are all series of letters/numbers/special characters which serve the purpose of excluding use by unauthorised persons, and must contain at least 6 characters and at least one capital letter, one number and at least one of the following special characters.
- 7) As part of the support request the CUSTOMER must enter the password when accessing the support area or mention it to the support employee. This protects the CUSTOMER from unwanted utilisation of the support by third parties. The COMPANY assumes that when a correct password is given, the person concerned is authorised to make use of support services, even fee-based services.
- 8) Telephone or written consultations and information relating to problems in connection with the operation of Windows, the Internet, Email, backup, anti-virus, write and graphic software and other software products except "CLARITY & SUCCESS", are NOT the subject of this agreement, unless you the CUSTOMER have booked the EXCLUSIVE SUPPORT. The add-on tool also used by the COMPANY, or software which has not been programmed or created by Clarity & Success, e.g. SMS software, list generators, etc., are also excluded from this agreement. Also excluded is hardware which has not been purchased by the CUSTOMER from the COMPANY.
- 9) The CUSTOMER may not claim the immediate processing of support inquiries at any time, nor does he have any claim to processing by a specific support employee. The COMPANY shall, wherever possible, make every effort to respond quickly and make available the same staff to deal with certain problems.

2.2 Scope

In return for the booked support the COMPANY makes available to the CUSTOMER, for the REGULAR and TOP SUPPORT , a certain number of minutes per month which can be used for the use of the Telephone Support or remote maintenance (in the case of TOP SUPPORT) (see Section B, Paragraph 7 Point 3). It is not possible to transfer to other stores, postpone or accumulate hotline minutes. Invoices shall be settled for each store/sales point. Times not used expire at the end of the month.

2.3 Support by programmers and other departments

- 1) If the support service requires a programmer to provide assistance, advice or in connection with an application, a different hourly rate will be applied for each programmer and will then be settled proportionately on the basis of a one minute cycle (see Price Table in Appendix 1). This applies, in particular, if customer requirements have to be met or if faults caused by the CUSTOMER have to be removed (e.g. database errors caused by network faults or computer crashes).
- 2) If other departments of the COMPANY are working for the CUSTOMER, their prices (e.g. Technology, Marketing, Accounting, Logistics, etc.) shall apply. These prices may be requested by the CUSTOMER.

2.4 Consulting outside the standard support.

- 1) If the CUSTOMER has problems with his hardware, and if he has not purchased it from the COMPANY, the current consulting rate shall be charged in the support case. This applies in particular to computers and label printers. This support is voluntary, there is no obligation and may be refused by the COMPANY (e.g. if this could cause a support bottleneck with other customers).
- 2) If the CUSTOMER has problems with other software, even if has purchased it from the COMPANY (e.g. Office applications, graphic software, etc.), the current consulting rate will be charged in the support case. This support is voluntary, there is no obligation and may be refused by the COMPANY (e.g. if this could cause a support bottleneck with other customers).

2.5 Languages:

- 1) The support is available in English and German.
- 2) Additional support languages are made available by the COMPANY in the individual case, voluntary and without any legal obligation, and permanent provision of these languages is not obligatory on the part of the COMPANY.
- 3) If the CUSTOMER has transactions abroad which cannot be adequately conducted in the German or English language, the CUSTOMER shall appoint at his expense a key user who conducts/supports its transactions, whereupon the main contact person will represent the Company in the English or German language. This key user then solves the inquiries locally under the instructions of Support.

2.6 Support bonus minutes

- 1) If a CUSTOMER attends a local or in-house training session, the COMPANY shall grant to him a bonus of 500 support bonus minutes which can be used within the first 3 months after the date of attending the local or in-house training course.
- 2) 250 support bonus minutes shall be granted by the COMPANY to the CUSTOMER for each trained store in the first 30 days after a remote training session by telephone. The time counts from the date of the training session, regardless of the date of starting to use the software. The granting of this bonus by the COMPANY is voluntary and only applies to the first remote training telephone session for each store of the CUSTOMER. If it turns out that further training sessions are required, the COMPANY is free to grant this or a similar bonus without the CUSTOMER having a claim to it.
- 3) If the CUSTOMER does not attend a training session or trains himself or is trained by third parties, no bonus shall be granted.
- 4) Support bonus minutes may be used by the CUSTOMER/business as the support-free minutes. It is not possible to transfer support bonus minutes to other stores or postpone them. They shall lapse without compensation after the periods mentioned have expired.

2.7 Support identification:

For support identification, particularly as part of an agreed on-call service, it is necessary for the CUSTOMER to enter his customer number when calling or for the COMPANY to have stored the telephone numbers from which the CUSTOMER is making the call in the telephone database of the COMPANY. The CUSTOMER shall therefore inform the COMPANY of the telephone number in question and agrees to it being stored in the database and made available to the employees of the COMPANY and third parties commissioned by the COMPANY with performing a service.

§ 3. Support Level

3.1 First Level Support (1 store and up to 29 branches)

- 1) The CUSTOMER may claim the direct service for up to 29 branches (it is irrelevant whether there are the customer's own branches or franchise branches). The COMPANY supports every store directly and personally.
- 2) Telephone consultation is provided via a hotline. This support is made available by the COMPANY by telephone accessibility. The COMPANY accepts no responsibility for temporary inaccessibility. Written consultations via Email are also possible.

3.2 Second Level Support (from 30 branches)

- 1) From 30 branches up the CUSTOMER shall be obliged, at his own expense, to set up First Level support which combines the inquiries of all the employees of the CUSTOMER and attempts to solve incoming inquiries and problems. The CUSTOMER shall provide the First Level support fully under his own responsibility with his branches and his own IT department.
- 2) As part of the Second Level support the COMPANY shall provide the same services as those mentioned in Number 3.1 included in the First Level support, provided that information is given exclusively to the competent IT support department of the CUSTOMER and not to the individual employees of the CUSTOMER, and without any direct supervision. Moreover, the same prices and conditions apply to the First Level support.
- 3) The CUSTOMER is obliged to have the first-level support worker trained by the COMPANY; this takes place according to a separate offer/order.
- 4) A takeover of the complete first- and second-level support can be implemented by signing an EXCLUSIVE SUPPORT agreement with the COMPANY, in which case the special conditions in section ("Supplementary EXCLUSIVE SUPPORT Conditions) will apply.

§ 4. Remote maintenance

- 1) The COMPANY offers the paid remote maintenance service (access to the PC of the Teamviewer®). As soon as the CUSTOMER informs the COMPANY of his Teamviewer ID he declares that he agrees to the COMPANY having time-limited, unrestricted access to his PC. The actions of the COMPANY can be monitored by the CUSTOMER on the PC. As long as the CUSTOMER does not intervene (takeover of mouse operation, screen message in text editor), he declares that he agrees to the actions of the COMPANY on his PC.
- 2) The CUSTOMER may incur additional costs by using the remote maintenance system.

§ 5. Obligations of the CUSTOMER

- 1) The CUSTOMER is obliged, when installing and using the CLARITY & SUCCESS software, operating system and hardware, to use them according to the system conditions, to keep them updated even during the term of this contract, and if necessary adapt to changed system conditions if this requires an updated software version. The system conditions may be consulted on the Internet at www.clarity-success.com.
- 2) The CUSTOMER shall be obliged to appoint at least one system manager in his operation. In principle consultation information must only be given to the system manager. The COMPANY shall not be obliged to provide other employees with the information.

- 3) For frequently arising questions or problems, the Support shall make available to the CUSTOMER an error check manual in which the CUSTOMER is able to clarify AND CHECK MATTERS PREDETERMINED BY HIMSELF SO THAT HE CAN THEN REPORT BACK TO SUPPORT WITH THE PROBLEM. Examples: Loose cables or plugs, devices not switched on, missing paper, network problems, Internet problems, cash till differences. Furthermore the COMPANY voluntarily makes available to the CUSTOMER short videos on frequently occurring questions which can be stored at each workstation on the desktop (e.g. reading in the article master, assigning the article groups, etc.).
- 4) The CUSTOMER undertakes to set up the organisation in his own company so that the system manager initially searches for an approach for solving his questions or problems on the basis of the help functions made available with the software (in particular, a manual) and, if this is not successful, to assist in describing, locating and documenting the error/problem (relating in particular to the reproducibility of the problem). This obligation to assist also includes the installation of the most recent update version at the request of the COMPANY.
- 5) The faults are notified, according to the booked support model, either by contact form, Email or by telephone to the support department of the COMPANY. The emergency support may only be contacted by telephone on the specified telephone number. The fault report includes an accurate description of the fault, if possible the model number of the hardware and the contact data and customer number of the end user. If necessary the COMPANY shall schedule the use of the technician with the end user of the CUSTOMER.

§ 6. Separate services

- 1) Training in operating the Clarity & Success software is not the object of the support contract but can be commissioned separately by the CUSTOMER as separate training courses according to his software version according to the tender/contract.
- 2) Measures such as inventory monitoring and the creation of new labels are not the object of the support contract but may be agreed by the CUSTOMER as a separate tender/contract.
- 3) Recurring processes and regular activities such as reading in the article master, reading in delivery notes, creating new employees and pool articles, as well as the training/supervision for this by the COMPANY, do not form part of the support contract. Reference is made to paragraph 1 above (Training).
- 4) If the software has to be re-installed, the COMPANY shall send an offer to the CUSTOMER. Installations are not the object of this support agreement.
- 5) It is recommended not to carry out a self-installation of the software since any corrections of an incorrect installation not carried out by the COMPANY does not constitute part of the support contract and is charged separately.

§ 7. Method of settlement of the support

- 1) Regardless of the number of free or bonus minutes or the actual consumption of support minutes, the CUSTOMER is obliged to pay the booked licence use fee.
- 2) CUSTOMERS who were not trained by the COMPANY must pay an extra price additional to the booked licence use fee for the support from each branch/business.
- 3) The use of the SUPPORT is defined for the CUSTOMER, for each contractual month booked, as follows;:

ESSENTIAL - SUPPORT:

Unlimited support: inquiries sent by contact form
 Support inquiries are answered exclusively by Email
 Support times: Monday to Friday from 09:00 to 17:00 hrs.
 Exceptions are national holidays in the United Kingdom.

REGULAR - SUPPORT

Unlimited support: inquiries sent by contact form

Support inquiries are answered by Email or telephone (30 minutes per month free).

Support times: Monday to Friday from 08:00 to 18.00 hrs.

Exceptions are national holidays in the United Kingdom.

TOP - SUPPORT

Unlimited support: inquiries by telephone or contact form

Support inquiries are answered by Email or telephone/remote maintenance (45 minutes per month free).

Monday to Friday from 08:00 to 18:00 hrs., and from 18:00 to 22:00 hrs. emergency contact.

Saturday, Sunday, national holidays from 10:00 to 18:00 hrs. emergency contact.

Telephone: 0044 (0)1785 255557

Emergency telephone number: 0044 (0) 7527 651451

EXCLUSIVE SUPPORT

Fixed contact.

Unlimited support inquiries by telephone or Email or contact form

Support inquiries regarding our IT are answered by Email or telephone/remote maintenance (unlimited)

Monday to Friday from 08:00 to 18:00 hrs., and from 18:00 to 22:00 hrs. emergency contact.

Saturday, Sunday, national holidays from 10:00 to 18:00 hrs. emergency contact.

Telephone: 0044 (0)1785 255557

Emergency telephone number: 0044 (0) 7527 651451

Email: exclusive.supportuk@clarity-success.com

- 4) After the consumption of the bonus or free minutes, the CUSTOMER shall be obliged to pay to the COMPANY a fee according to the current price-list.
- 5) If, in addition to the telephone consultation, processing of the support case by the Support is required, this processing time will also be settled with the free minutes.
- 6) Unused free minutes shall lapse at the end of each month.
- 7) If the problem requires a telephone call-back by the COMPANY, additional costs will be charged to the CUSTOMER in case of a call-back outside the fixed European network or German mobile network. To avoid these costs the COMPANY offers SKYPE and WHATSAPP telephony.
- 8) Remote maintenance on the CUSTOMER's computer. The COMPANY does not recommend using the remote maintenance service but instead clicking the service as a CUSTOMER under the instructions of the support so that the learning effect is greatest and the CUSTOMER is able to solve his problem himself the next time.
- 9) CUSTOMERS who have booked the ESSENTIAL SUPPORT or REGULAR SUPPORT, but would like to make use of the SUPPORT outside their actually contractually arranged support times, may request extended support on payment of an increased support fee according to the price-list. Existing free minute quotas are not charged in such a case.

§ 8. Emergency support

During the Support times which are identified by the word Emergency (Standby) the inquiries of the CUSTOMER must be made exclusively by telephone on the telephone number indicated. The Emergency Support is provided by a mobile telephone given to the duty Support assistant. This is an Emergency Support with limited possibilities.

C. Special conditions for software updates, Upgrade

§ 1. Update service

- 1) If and as soon as the COMPANY makes available software updates (program adaptation, correction and supplements) for all customers generally, these will be made available to the CUSTOMER.
- 2) The COMPANY shall inform the CUSTOMER of the availability by Email or by messages on the screen by the software and shall make available to him the update call facility.
- 3) The CUSTOMER may then download these updates in the online process. The service costs (Internet) resulting from this shall be charged to the CUSTOMER.
- 4) Individual program adaptations and their updating do not constitute the object of the contract. These services are only provided by separate agreement at an agreed fee. This also means that any adaptations or extensions are charged extra, even if the reason for the adaptation is a change in the database structure of the CLARITY & SUCCESS software.

§ 2. Upgrades

- 1) If the COMPANY creates a NEW version (not an update of the existing software) of the "CLARITY & SUCCESS" program, the COMPANY undertakes to inform the CUSTOMER of this immediately after completion (Email).
- 2) The CUSTOMER will then be able to book this new program version after the expiry of his booking time. Any training, installation or programming costs for special adaptations shall be borne by the CUSTOMER. Section B (licence contract) shall apply correspondingly to the delivery of the NEW version.
- 3) A new program version shall replace the previous version. There will no longer be any updates of the previous version from this time onwards.

§ 3. Other services

- 1) The COMPANY shall undertake the adaptation of the programs to changed or new systems, devices or operating systems, or to amended requirements for use, as part of the operating facilities, and if reasonable. Adaptations of the software to systems and services requested by the CUSTOMER must be established in detail and shall be agreed according to the tender/contract and after payment in a separate contract or supplement to this contract.
- 2) If the CUSTOMER uses the program in systems and devices other than those existing at the time of installation, or if he does not comply with the system conditions, and if no agreement is reached on an adaptation required for this within the framework of a separate commission, the contract may be terminated by the CUSTOMER or by the COMPANY extraordinarily giving notice of one month to the end of the calendar month. If the CUSTOMER uses the programs on systems and devices other than those present at the time of installation, and if this tenders the maintenance of the program unreasonable, the COMPANY may decline the maintenance.
- 3) If the COMPANY offers the CUSTOMER a new program version to avoid or remove defects or to avoid failures of other programs, the system or other devices, these must be taken over or installed immediately by the CUSTOMER. This only applies to defects which are attributable to the COMPANY for the CLARITY & SUCCESS program and which occur within the warranty period. If the new program version serves to eliminate violations of protective rights, it must also be taken over or installed immediately.
- 4) If the new program version has been created to eliminate errors in the old program, there is no longer any entitlement to updating of the replaced previous version of the program.

§ 4. Obligations of the CUSTOMER

- 1) If the CUSTOMER uses third party hardware/third party software which he has not acquired through the company, but which was installed and set up by the COMPANY, the CUSTOMER is obliged to test the functionality of the setup/installation immediately after the set-up/installation has been completed and report to the COMPANY any defects in the set-up/installation up to 14 days after completion of the set-up/installation at the latest. In the case of hidden defects in the set-up/installation, the CUSTOMER is only entitled to make a claim under the warranty if he has claimed within the above-mentioned period. The same applies if the CUSTOMER has commissioned the COMPANY to transfer legacy data.
- 2) The CUSTOMER undertakes to appoint at least one system manager within his company. The COMPANY shall not be obliged to provide other employees with the information.
- 3) The CUSTOMER undertakes to cooperate in the best way he can in the installation of the software updates and the new program versions. In particular, he must communicate immediately any change in the hardware, number of users, etc.
- 4) The CUSTOMER shall also be obliged to store his data on an external data carrier before installing a new program version or a new update and to test his systems for compatibility with the new program version/update.
- 5) The CUSTOMER shall be obliged, if necessary, to adapt his hardware and software (operating system) for updating software acquired by him to the existing minimum configurations or system conditions, and to upgrade his hardware and software accordingly. The costs this incurs shall be borne by the CUSTOMER. The minimum configurations applicable to the update can be requested by the CUSTOMER from the COMPANY or can be obtained on the Internet on the home page under the system conditions, www.clarity-success.com. The COMPANY points out that if an upgrade is required, it is recommended that he carry this out not just on the existing minimum configurations, as otherwise another upgrade may be required soon afterwards, the costs of which would again have to be borne by the CUSTOMER.

§ 5. Data back-up

The CUSTOMER shall be obliged, at his own expense, to carry out a daily back-up of his data on external data carriers and check the restorability of the data back-up, even if the technical means for data back-up have been supplied by the COMPANY.

D. General Conditions

§ 1. Fee, due date

A) Fee for the software use licence and support

- 1) The COMPANY shall issue an electronic invoice for the booking period.
- 2) The fee for software use and for the booked support level shall always be established at the time of booking and must be paid by the CUSTOMER before commencement of the period of use of the software. The services booked by the CUSTOMER must be paid for in advance and must not be made available by the COMPANY until payment is received.
- 3) The fee applies per business/shop/store/shop-in-shop/sales point.
- 4) The fee must be paid to the COMPANY from the date indicated in the booking either one year in advance or monthly at the beginning of each month.
- 5) The first fee is due from the month following the release of the software use licence. The full monthly booking fee is payable for the month of termination of the software use.
- 6) There will be no refunding or offsetting of use fees which are overbooked or overpaid. Similarly, no price discounts or refunds are granted by the COMPANY for booked services but for services which are not used.

- 7) An upgrade of the software module (e.g. from Silver to Gold), the workstations, other services and the support level is possible at any time. All booked workstations use the same software module. The increase in the use fee associated with this will be due from the following month. Conversely, a downgrade during the booking period is not possible.
- 8) In the case of a software module downgrade (e.g. from Bronze to Standard access to the customer address database is lost), the CUSTOMER will from then on have no access to the data in the program areas previously used which do not form part of the newly booked software module. The COMPANY wishes to emphasise that data must be exported by the CUSTOMER before the downgrade.
- 9) A booked support upgrade will take effect at the beginning of the month following booking. Alternatively the CUSTOMER may purchase the support upgrade immediately if he pays the full booking fee for the current month.

B) Fee for extra support minutes used

- 1) The COMPANY generally issues an overview of all the hotline minutes taken up by the third of each following month as an invoice, in the form of a PDF file attachment, indicating to the support employee the date, the reason, the minutes consumed and actually arising, and any call-back costs, programming and remote maintenance costs incurred. These costs fall due for payment on the 15th of each succeeding month and are collected by direct debit mandate or from the credit or debit card of the CUSTOMER by the COMPANY. For logistic reasons it is not possible to send invoices for each item for these services, nor is it possible to select a different method of payment. The COMPANY reserves the right to change the methods of payment.
- 2) If the CUSTOMER does not want to use up extra hotline minutes from its branches or employees for special reasons (e.g. cost control), it is possible to switch the method of payment to prepayment with the COMPANY. In this case extra support minutes will not then be charged until the CUSTOMER issues a written tender/order and has paid for this.
- 3) If the CUSTOMER wants neither a direct debit mandate nor a credit or debit card collection, he may purchase the hotline contingent in advance from the COMPANY, from which the costs of the extra hotline minutes can be automatically settled.

§ 2. Value added tax, methods of payment

- 1) All the prices mentioned in this contract are understood to be net of statutory value added tax if the service is subject to VAT for the CUSTOMER.
- 2) The COMPANY offers the following methods of payment:
 - a. Direct debit within the European Union (EU) if the bank of the CUSTOMER is set up for this.
 - b. Debit card using Sagepay
 - c. Credit card using Sagepay

The COMPANY reserves the right to change the methods of payment.

- 3) Other methods of payment for invoices for special services provided by the COMPANY, for example separate support contingencies, hardware, accessories, consumables, training sessions and services, are indicated in the individual invoice.
- 4) All bookings must be paid for by the CUSTOMER for each transaction using the same method of payment.
- 5) If no due date is indicated separately above or in the relevant invoice, invoices become due within 10 days after receipt by the CUSTOMER, and must be paid on the due date, and by a cashless method, into the account mentioned in the invoice.
- 6) If the CUSTOMER defaults on payment of the fee, interest shall be charged at the rate of 9% per annum above the base rate of the European Central Bank. In the case of returned direct debits, the COMPANY will charge the CUSTOMER for any processing costs this involves.

§ 3. Term / termination/ blocking of contract

- 1) The contract is concluded between the CUSTOMER and the COMPANY on the basis of the booked period. At the end of the booking period the booking period will be extended on the basis of the previous period, unless the CUSTOMER cancels the extension in writing by Email to contract@clarity-success.com 5 working days before the end of the booking period. The CUSTOMER has the opportunity to cancel an automatic extension even at the time of booking.
- 2) If the CUSTOMER's booking terminates, the CUSTOMER can no longer continue working with the software and his existing databases and data. The software reverts to viewing mode and only data may still be exported. It is emphasised that after termination of the booking no further obligations regarding the granting of software use, updates, maintenance or support services on the part of the COMPANY will exist.
- 3) If the CUSTOMER does not wish to conclude a software use contract with the COMPANY immediately after the termination of a booking period, but does not wish to continue working with the software until a later date, or only with his existing database and data, the CUSTOMER will be obliged to pay the costs of any expensive adaptations to the current software version for installation, data, layout, settings, etc.
- 4) Any right to extraordinary termination for a valid reason shall remain unaffected.
- 5) The COMPANY shall be entitled to extraordinary termination of the contract, particularly in the following cases:
 - a) the disconnection of the booked software or parts thereof,
 - b) the imposition of a support bar and non-availability or disconnection of the data transfer software, also called "DTS" software (DTS lock) (in this case no further data will be transferred),
 - c) if the CUSTOMER is in arrears with the payment of the fee in an invoice (which may be based on other contractual conditions) or a not inconsiderable part of the fee. Not inconsiderable refers to an amount that does not exceed the fee payable for two months.
or
 - d) if the CUSTOMER, despite receiving a previous written reminder from the CUSTOMER, finds it impossible to come to an "understanding" for reasons relating to unreasonable conduct, and support is unreasonable for a support employee (e.g. unfriendly behaviour, obstrusiveness, not capable of learning, problems with understanding, etc.).
- 6) In the event of extraordinary termination of the contract because of existing payment arrears of the CUSTOMER, the COMPANY shall declare it is willing to conclude a new contract provided that the CUSTOMER has cleared all the arrears plus interest and processing costs. The payment claims also include claims for damages made against the COMPANY in the case of termination without notice.
- 7) In the case of a hotline block, the amounts/fees paid during the block will not be refunded if the block has been caused by behaviour/an event beyond the sphere of influence of the COMPANY.
- 8) Any notice of termination of this contract must be in writing.

§ 4. Prices and adjustment

- 1) The CUSTOMER may request the current prices from the COMPANY.
- 2) The COMPANY reserves the right to charge different prices based on country.
- 3) The COMPANY reserves the right to revise the prices of all products and services. An increase in booking prices during a current booking period is not permitted.
- 4) The CUSTOMER shall be notified of price changes for bookings no later than 4 weeks before the expiration of the booking period.

§ 5. Customer loyalty bonus

As a loyal CUSTOMER he will receive, every 12 months, a bonus for attending a one-day Clarity & Success software further training session of his choice for one employee in his company. A loyal customer is one who has booked a software module consistently over the last 12 months. The bonus for attendance is valid for 12 months. The CUSTOMER must bear the accommodation and travel costs. The one-day further training sessions will be held in predetermined locations and on dates established by the COMPANY. Early registration is recommended because there are only a limited number of spaces. Further training sessions are published on the Internet.

§ 6. Individual programming

After receiving the signed offer/order, Clarity & Success will immediately discuss the possible project start with the programmers and notify the CUSTOMER of a completion date (date of the first test with the CUSTOMER). The software is programmed according to the jointly signed performance specification of the CUSTOMER. The CUSTOMER may order from Clarity & Success the issue of a detailed performance specification on payment of an additional cost. Force majeure and illness or accident may delay the project, for which Clarity & Success undertakes no liability if these factors are beyond the control of Clarity & Success.

The software is developed for the currently valid version of Clarity & Success. With this programming any set-up, development and adaptation costs relating to more recent software versions are not included and must be ordered and charged separately after publication of the new software versions. A compatibility of the adaptations with new software versions cannot be guaranteed on the basis of the individual implementation of the adaptations. Operating instructions, in the form of a PDF, may be issued for adapted functions at a price to be calculated and does not form part of the content of the order.

Before final delivery of the software by Clarity & Success to the CUSTOMER, the CUSTOMER shall carry out several test runs with all the existing functions of the software. The CUSTOMER shall inform Clarity & Success, within 14 days, whether the functions implemented in the software are fault-free and shall issue a written release. If this is the case the software shall be regarded as accepted. If there is no feedback from the CUSTOMER within 14 days, the software shall be regarded as accepted, and no warranty claims can be made - except for defects which could not be detected during a proper test. From the date of release the CUSTOMER shall be responsible for the completeness of the functions. If certain functions have not been considered, an upgrade can be carried out at any time by Clarity & Success at a charge to be calculated.

The CUSTOMER may use the new software for an unlimited time in his own commissioning company and on the specified computers unless external conditions change (forwarding copies of the software to third parties is expressly prohibited). Such conditions include, for example, incompatible future operating systems and/or hardware environments and/or more recent software versions with which this software interacts. Nevertheless, if this rare case is due to unpredictable incompatibility, Clarity & Success must ensure that the software function continues as part of a new order.

Since a considerable proportion of the software is based on the company secrets of Clarity & Success, the issue of the source code/sources of the software does not form part of the order. Any right of use (usufruct) and copyright extending beyond the above grant of usufruct shall remain permanently with Clarity & Success. The sources and software are the intellectual property of Clarity & Success; the customer has no claim to this property even if he has contributed ideas for development. Clarity & Success reserve the unrestricted right also to sell this software to other customers or to make a licence of use available to them.

Any monthly maintenance fees do not provide entitlement to further development of the software but contribute proportionately to the support and care of the software.

The General Contractual Conditions shall also apply to software, support and updates, together with [the marked part may be omitted if you include the provision in the contractual conditions] the General Terms of Business of Clarity & Success; these may be consulted on the Internet at www.clarity-success.com.

§ 7. Confidentiality, data protection

- 1) The entity entitled to confidentiality, according to the provisions set out below, is the party who passes on information to one or more other parties. The entity obliged to maintain confidentiality, according to the provisions set out below, is the party who receives information from one or more of the other parties.
- 2) The entity obliged to maintain confidentiality, including all the associated companies, undertakes, in respect of confidential information from the entity entitled to confidentiality, to keep this confidential information secret for an unlimited period, and not to use this information either in its own company, including all associated companies, or through other natural persons or corporate bodies/allow it to be used by them, or otherwise to use the information or allow it to be used by third parties. In particular, all the passwords and their encoding algorithms made known to the COMPANY within the framework of this contract shall be treated in the strictest confidence.
- 3) As part of this declaration, confidential information – including, in particular, for example, but not limited to – any business secret, any information and all data or other information not publicly available or confidential information relating to products, processes, know-how, design, formulae, developments, research, computer programs, database, other copyright protected works, customer lists, business plans, marketing plans and strategies, financial plans and information, or any other information which relates to any business activity of the entity entitled to confidentiality and of its employees, consultants, associate companies or other persons who are to be assigned to the entity entitled to confidentiality, and which is notified to them or is otherwise communicated in written or verbal form and described as confidential.
- 4) Information is regarded as confidential if it
 - a) was already known to the receiving party before it was communicated to it by the disclosing party without the imposition of the confidentiality obligation;
 - b) was publicly available at the time of the disclosure or became publicly available after this disclosure without this happening as a result of a violation of a confidentiality obligation by the receiving party or third parties;
 - c) a party has received in good faith from third parties who were not subject to the confidentiality obligation towards the disclosing party in respect of this information; or
 - d) must be disclosed according to the applicable law or on the basis of a court decision.
- 5) The parties to this contract undertake not to process or otherwise use personal data for a purpose other than required to perform the relevant tasks. In particular, the parties are not permitted to notify or make available such data to third parties. However, in the relationship between the parties, third parties are not the companies used by the COMPANY to process payments or perform other contractual or technical services.
- 6) If the COMPANY collects stores and processes personal data on the instructions of the CUSTOMER, the parties shall reach a separate data processing agreement for this data processing.
- 7) If there are legal storage obligations, however, the COMPANY is also entitled, for their duration, to continue to store data otherwise assigned for deletion, and if it is necessary to use and process the data in order to comply with the legal obligation.
- 8) If an employee of the COMPANY performs the tasks assigned to him inside the business premises of the CUSTOMER, the CUSTOMER will make the employee concerned with the work regulations and the applicable internal safety regulations. For subcontractors and external service providers who can be used in special cases to remove faults for local operations, the CUSTOMER must have prepared a form for protection locally if he so wishes.
- 9) The COMPANY shall inform the CUSTOMER immediately if data protection violations from the sphere of the COMPANY are suspected. The CUSTOMER is responsible for compliance with the data protection regulations only within his sphere and shall independently check the reliability of the data

processing for the purposes mentioned in these contractual conditions before transferring the data to the COMPANY.

- 10) The COMPANY confirms that its employees are subject to data secrecy. This obligation of the employees to data secrecy will be demonstrated to the CUSTOMER on request.

§ 8. Liability

- 1) In the case of gross negligence, the COMPANY shall be liable according to the applicable legal provisions, and the limitations of liability below shall not apply in these cases.
- 2) In the case of simple negligence liability is excluded if neither an essential contractual obligation (i.e. an obligation on the part of the COMPANY without which the CUSTOMER would not have concluded this contract, also called cardinal obligation) has been violated, nor life and limb have been injured, or in the case of impossibility or default.
- 3) In the case of simple negligence, and if a major contractual obligation has been violated, or in the event of impossibility or default, the liability for damage not due to the injury of life or limb shall be limited to damage which was foreseeable at the time of signing the contract and after the normal contract process, but in any case, to the amount of the industrial liability insurance reserved by the company with the following amounts:
 - 1,023,000 EUROS lump sum for personal injuries and material damage
 - 52,000 EUROS for pecuniary loss
- 4) The COMPANY will maintain the industrial liability insurance described above for the term of this contract.
- 5) The COMPANY shall be liable to the CUSTOMER or a third party, regardless of whether this third party is associated with the CUSTOMER or not, for all indirect losses or damage which arises directly or indirectly from the rights and obligations granted/imposed according to this contract, but only in the event of gross negligence.
- 6) The limitation of liability agreed in para. 3 shall also apply in the case of the initial incapacity of the COMPANY or the supplier. In this case the liability is limited to the amount paid for the licence indicated in the invoice issued for this.
- 7) The above limitations of liability shall also apply, in the case of simple negligence, in favour of salaried and other employees of the COMPANY and in favour of the manufacturer of the software/hardware.
- 8) However, the above limitations of liability do not restrict the legal claims made according to the Product Liability Act and those arising from express warranties. The liability for damages arising from injury to life, limb and health resulting from a negligent violation of obligations on the part of the COMPANY or a deliberate or negligent violation of obligations of a legal representative or assistant of the COMPANY shall not be affected by the other limitations of liability.

§ 9. General Provisions

- 1) If the contract is initiated by a general or commercial representative, the latter shall be an authorised contract partner, but only an authorised commercial representative. If a tender from a general or commercial representative is accepted, only CLARITY & SUCCESS SOFTWARE GmbH Germany is the contract partner. The general and/or commercial representative is entitled to bind or commit the COMPANY legally outside tenders.
- 2) The CUSTOMER is entitled to offset or retain payments only if his counterclaims have been established in court or are not in dispute.
- 3) The CUSTOMER is liable for all customs and taxes which are levied by a national, federal, state or local authority in connection with this contract, except all taxes levied for turnovers, incomes or profits of the COMPANY. This applies particularly when the hardware/software supplied by the COMPANY is transferred to a location other than that of delivery.

- 4) A party shall not be liable for the non-fulfilment of its obligations (if they are not payment obligations) if the reason for the non-fulfilment is an event that is beyond the control of the obligated party by reasonable standards. Each party shall take every care to ensure that the effects of such an event are kept to the minimum. If such an event lasts longer than one (1) calendar month, each of the parties may terminate in writing the applicable contract in respect of the services not yet performed or the products not yet delivered.
- 5) Agreements outside this contract have not been reached. Amendments and supplements to this contract require to be in writing. Waiving the written form is also subject to formalities. Except for the written form, communications between the parties who are involved in the execution of this contract; here text form is sufficient.
- 6) If individual provisions of the contract and of these conditions be or become invalid, the validity of the remaining provisions shall not be affected thereby. In place of the invalid provision, or in order to fill any gaps in the tender and in these conditions, the parties should establish an effective, reasonable provision which comes closest to what the parties intended in terms of the economic objective.
- 7) CLARITY & SUCCESS is a trademark of CLARITY & SUCCESS SOFTWARE GmbH Windows is a trademark of the Microsoft Corporation. All other product names are trademarks of the respective owners. © CLARITY & SUCCESS SOFTWARE GmbH. All rights reserved.
- 8) The CUSTOMER shall grant the COMPANY and Clarity & Success Software GmbH the right to use the customer name and the customer relationship between the parties (to the actual extent) for reference purposes in a marketing campaign (classic or via the Internet). In this case the COMPANY undertakes to use logos of the CUSTOMER only after their release.
- 9) The General Terms of Business of CLARITY & SUCCESS Software GmbH shall also apply. The General Terms of Business can be viewed at www.clarity-success.com.
- 10) If the CUSTOMER is not the consumer the law of the Federal German Republic shall apply to the contract and its execution, except where international contract law applies.
- 11) If the CUSTOMER is not the consumer, the competent court for all disputes arising from this contract is that of Halle in Westphalia Germany.

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