

## General terms of business of 'ekey' as at 01-09-2007

### 1. General

All deliveries and performance of 'ekey' (or seller) are exclusively executed according to these General Terms of Business (AGB). Regulations different from these AGB, especially in the AGB of the contract partner, only apply if they are explicitly and in writing confirmed by 'ekey' before the contract is concluded. 'ekey' is not obliged to contradict the AGB of the contract partners, not even in the event that in the AGB the validity thereof is named as an explicit condition. 'ekey' declares that it solely wants to contract on the basis of these AGB. These AGB apply both to the business presented and to all cases of business to be made in the future, as well as to all data in brochures, price lists, advertisements, data on packages etc. given in connection herewith, regardless of the fact whether they were executed verbally, in writing or on the Internet.

### 2. Offer and Conclusion

All offers are non-binding and subject to alteration and are executed with the reservation of self-delivery in so far as 'ekey' offers goods taken from third parties. The conclusion of the contract is materialized when 'ekey' confirms its order in writing, or when the goods/performances are delivered. Information about performance provided by 'ekey' in price lists, catalogues, advertising media, etc., represents no offers. Verbal information, supplementary agreements and all other declarations and promises of any kind provided by 'ekey', also in connection with settling complaints, are invalid provided they are not confirmed by 'ekey' in writing as agreed before the conclusion of the contract. Alterations or supplements to the contract including the AGB must be submitted in writing to come into legal force. This also applies to the cancellation of this rule of writing. The workers of 'ekey' are not authorised to give legally binding declarations, e.g. promises concerning certain terms of delivery. Minor differences from the product data are to be regarded as permitted.

### 3. Prices

The charge is based on the price valid on the day of the order, plus sales tax in the respective legal amount. The prices settled are valid save as provided by an alteration of the production costs. If offers are based on US dollar 'ekey' is entitled to additionally charge the rate increase; this does not apply provided conclusive legal rules, e.g. for consumer shops, lay down something different. As there is no other written agreement, all prices are to be understood without supplementary expenses, package, dispatch and customs costs. There will be an extra charge for these. Services, in particular maintenance, repairs, installations and training will be charged by 'ekey' according to a valid hour rate. If the value of the goods is below EUR 150.00 without sales tax, 'ekey' will charge the minimum amount surcharge of EUR 15.00 plus sales tax.

The costs of program carriers (e.g., CD's, magnetic tapes, magnetic disks, floppy disks, streamer tapes, magnetic tape cassettes, etc.) as well as any contract fees shall be billed separately.

For library (standard) programs the valid prices are the list prices in effect on the day of delivery. All other services (organizational consultancy, programming, training, support during changeover, telephone advisory services) will be charged at the rates in effect on the day the services are performed. Deviations from the amount of time calculated as being required for the work (which serves as the basis for the price calculation) and for which the seller is not responsible, shall be charged according to the actual time spent.

The costs for travel, per diem, and overnight accommodation costs shall be invoiced separately to the buyer according to the valid respective rates. Transit time is to be considered as work time.

### 4. Fulfilment of Deliveries and Performance

Delivery terms are non-binding and do not start before the clarification of all technological and other details of the order. This also applies to terms in connection with dealing with guarantee cases and other performance. Delivery delays that 'ekey' cannot justify, do not entitle the contract partner to enforce claims of guarantee, error appeal or compensation. Partial deliveries are allowed. Defects of operation and events of force majeure and other events that are out of sphere of influence of 'ekey', particularly delivery delays and others caused by subcontractors, entitle 'ekey' to prolong the delivery periods or to cancel the contract while claims of guarantee, error appeal and compensation are excluded. This also applies to events that occur when 'ekey' is in arrears. The transport is made at the contract partner's own account and risk, the same holding for partial deliveries. This also applies if carriage-paid delivery is agreed on. Transport costs will not be submitted. The goods are only insured on the contract partner's account and explicit order. When

the goods are dispatched collected by the forwarder or, at the latest, handed over to the contract partner or to a person appointed by the contract partner, the risk passes to the contract partner. Regardless of the delivery place and taking-over of relevant transport charges, the place of performance is, as agreed on, Linz. In the event of export of the goods bought, the contract partner is obliged to take care of all necessary export, customs and other approvals on his own account. 'ekey' is not liable for the permissibility of the exportation of the goods. Should any expenses or costs arise for 'ekey' through the dispatch, transport or the export of the goods, the contract partner will indemnify 'ekey'.

Individual organizational plans and programs shall be elaborated in line with the type and scope of the information, documents and accessory aids which have been made available in total by the buyer. Included are customary test data as well as the opportunity to test to the necessary extent, which the buyer shall make available on a timely basis, during normal business hours, and at his expense. If the buyer has already been working in real time in an operating system that is being made available for testing, the responsibility for securing the real data lies with the buyer.

The basis for creating custom-designed programs shall be the written performance specifications that either are provided by the buyer or that the seller writes up, at charge to the buyer, on the basis of documentation and information provided to him by the buyer. This performance catalogue is to be inspected by the buyer for correctness and completeness and is to be initialled by him as a sign of his assent. Requests for modifications which are made thereafter can result in separate deadline and price agreements.

For individually created software or program adaptations, it is required that each program be accepted by the buyer at the latest four weeks after delivery by the seller. This acceptance will be confirmed in a record of the transaction by the buyer (inspection for correctness and completeness in line with the performance specifications accepted by the seller on the basis of the test data made available to him). Should the buyer allow four weeks to pass without accepting the program, the delivered software shall be deemed to have been accepted as at the last day of the stated time period. If the buyer uses the software in real-time operations, the software is thereby deemed to have been accepted by the buyer. Possible defects – deviations from the written performance specifications – are to be reported to the seller with sufficient supporting documentation. The seller shall make efforts to correct the defects as quickly as possible. If there are serious defects that have been reported in writing, i.e., if real-time operations have not commenced or cannot be continued, a renewed acceptance of the work following correction of the deficiency is required. The buyer does not have the right to refuse software because of immaterial defects.

When library (standard) programs have been ordered, the buyer confirms by virtue of the order his knowledge of the scope of performance of the ordered program.

Should it prove in the course of the work to be impossible, actually or legally, to complete the order in line with the performance specifications, it is the responsibility of the seller immediately to inform the buyer thereof. If the buyer does not change the performance specifications accordingly or create the conditions to make completion of the order possible, the seller can reject performance of the order. If the impossibility of carrying out the order is due to an omission on the part of the buyer or to a later change by the buyer in the performance specifications, the seller is entitled to withdraw from the order. The buyer is to reimburse the seller's costs and fees that have come due for the work as well as any dismantling costs.

The shipment of program carriers, documentation, and performance specifications shall be at the expense and risk of the buyer. Should the buyer wish further training and elucidation, these will be billed separately. Insurance will be taken out only at the request of the buyer.

The seller is to endeavour to keep as closely as possible to the agreed dates for completion of the order. The targeted completion dates can only then be met if 1) the buyer makes available to the seller in full, on the dates established by the seller, all the necessary preliminary work and documents, especially the performance specifications accepted by him, and if 2) the buyer fulfils his obligation to cooperate to the extent required. Delays in delivery and cost increases that result from incorrect, incomplete, or subsequently changed data and information or supporting documentation provided to the seller, are not the responsibility of the seller and cannot result in the seller's being in default of delivery. Additional costs so arising are to be borne by the buyer.

In the case of orders that encompass a number of units or programs, the seller is entitled to make partial deliveries and to submit partial invoices.

Cancellation by the buyer is only possible with the written agreement of the seller. If the seller agrees to the cancellation, he is entitled to charge not only for services rendered and accrued costs, but also a cancellation fee that represents 30% of the value of the total order not yet settled.

## **5. Guarantee, liability and dealer regress**

**5.1.** The contract partner is obliged to examine the goods immediately and check for defects. Complaints about defects are to be enforced by the contract partner in writing immediately, however, within a week following the reception of the delivery at the latest, while other guarantee and damage compensation claims are excluded. The contract partner is to inform 'ekey' about

damage caused by transport and possible mechanical damage of the goods delivered, as well as incorrect numbers within 24 hours following the delivery of the goods, while any other claims are excluded. Complaints about defects are no reason to keep back partial or total sums of invoices. The rules mentioned above do not apply if conclusive legal rules, e.g. those for consumer shops, appoint differently.

## **5.2. Warranty period**

For contracts with companies the following rule is applicable:

With new appliances, the guarantee period lasts 24 months, while with used ones the legal guarantee rights are excluded. This does not apply if something different was agreed upon in writing, or, if conclusive legal rules, e.g. for consumer shops, lay down a longer guarantee period. The guarantee period runs from the moment of the taking-over of the goods. Improvements or improvement attempts neither prolong nor interrupt the guarantee period. A relevant prolongation of the guarantee period only applies to the part repaired if conclusive legal rules, e.g. for consumer shops, preclude the exclusion of the prolongation or interruption of the guarantee period. An inhibition or interruption of the guarantee period only occurs, however, if a court enforces the guarantee claim or if 'ekey' acknowledges the defect in writing. Improvement attempts are no acknowledgement and do not bring about a prolongation of the guarantee period. The same applies to improvements that were carried out in a fair manner, i.e. without the recognition of the legal duty. In the event of partial deliveries, the guarantee period starts with the delivery of the particular part.

## **5.3. Mode of complaints; Returns**

The contract partner is obliged to enforce his guarantee or compensation claims exclusively by keeping to the mode of complaints as given in the following: to enforce one's guarantee claims the number and date of the invoice, and the defect needs to be stated and is to be handed in/delivered free to 'ekey'/the service partner. In the event of sending the product complained about (Send-In Service), the costs for the transport to 'ekey'/the service partner will be borne and the risk of a possible loss or of a delay during the transport will be taken by the person enforcing the claim, and for that reason, concluding appropriate insurance is recommended.

If the mode was not kept as agreed upon, the claimed goods will be returned without being dealt with and a standard treatment fee amounting to EUR 15.00 plus sales tax will be charged. If it turns out that no defaults are present on the claimed product or that the default data were given wrong, a standard fee for minimum treatment amounting to EUR 15.00 plus sales tax will be charged. The contract partner is reserved the right to prove that either no costs or only a smaller amount arose. Above written procedure is valid for all returns.

## **5.4. Scope of warranty**

In the event of a justified complaint about defect, 'ekey' will first of all attempt to improve the faulty item, if need be, provide a replacement. If a complaint is made later than six months following the date of production, the amount of the possible repayment is calculated from the purchase price minus benefits of use. Only if the defect removal is refused unjustly in writing, despite the appropriate period, the contract partner is entitled to have the defect removal carried out by a different company. All these rules do not apply if conclusive legal rules, e.g. for consumer shops, appoint differently. If conclusive legal rules, e.g. for consumer shops, provide for nothing to the contrary, the contract partner is in charge of the proof that the defect claimed was already present at the moment of the handing over of the item. This applies at any rate, i.e. also with consumer shops, to defects that only appear six (6) months following the delivery of the item. It is generally assumed that a defect complained about after the twentyfourth (24) month of the guarantee period is a matter of a common wear and tear that the contract partner/ultimate buyer is responsible for, and does not justify any guarantee claims.

## **5.5. Warranty for parts subject to wear and tear; wrongful use**

Further, it is pointed out that for products, e.g. parts subject to wear and tear, the life of which is generally expected to be under the guarantee period mentioned above or under a guarantee period laid down by law, the guarantee claims cannot be fulfilled within the entire guarantee period. With accumulators, for example, the efficiency falls off after six (6) months of normal use, and therefore guarantee claims for accumulators, especially those concerning efficiency, can basically be accepted within six (6) months following the delivery. For the same reasons, guarantee claims concerning the picture quality of LCD displays cannot be accepted twelve (12) months following the delivery any more.

## **5.6. No guarantee claims can be accepted for products that**

were damaged or made unable to operate

1) by using the product for a purpose for which they were not intended, non-observance of the notes for the user contained in the Instructions for Use and/or in the Guarantee Certificate or the

repair and service card delivered together with the product, or by any other incorrect use of the product, e.g. if the contractually provided goods were operated together with such devices or programmes the compatibility of which was not explicitly confirmed by 'ekey',  
2) by changing the product,  
3) by attempts to repair the product by a third person, i.e. not by 'ekey' or a service partner authorised by 'ekey',  
4) by improper transport or improper package for the return of the product to 'ekey' or a service partner of 'ekey',  
5) by improper installation of products provided by third persons (e.g. memory modules).

### **5.7. Cession of guarantee and compensation**

The cession of guarantee and compensation claims and others is impossible. If the contract partner enforces guarantee claims or withdraws from the contract, he is to furnish 'ekey' an appropriate compensation for the use as well as indemnification for the reduction in value of the performance.

### **5.8. Limitation of liability**

Compensation and error appeal claims that result from a possible faulty delivery or an improper execution of another performance of 'ekey', e.g. in connection with carrying out guarantee repairs, are explicitly excluded; in particular any liability for loss of data and loss of profit of the contract partner. The liability exclusions or limits stated here apply to claims of the contract partner on the basis of the legal regulations that were issued in the explanation of the guidelines 99/44/EG of the European Parliament and the Council of the 25th May 1999 in the particular EU countries, e.g. they apply to the redress claim of the contract partner after the performance of the guarantee duty towards the user. The liability limits stated above do not apply in the event that the damage resulted from our intention or gross negligence; they do not apply to personal injury if a transaction for a delivery by a fixed date was agreed upon, further if damage results from the absence of a quality that we have guaranteed, and they do not apply to claims based on the law of product liability (see Point 8).

### **5.9. Warranty for contract partners**

If the contract partner disposes of the goods obtained from 'ekey' to an ultimate buyer, 'ekey' may arrange – e.g. in the Service and Repair Sheet enclosed to the device – that possible guarantee claims enforced from 'ekey' or a service partner by the ultimate buyer in the name or by order of the contract partner as his performance accomplice are arranged directly with the ultimate buyer provided that the guarantee claims enforced by the ultimate buyer do not exceed the claims that the contract partner is entitled to. If within the frame of the guarantee, the ultimate buyer/user lodges his claims directly against the contract partner, the ultimate buyer/user explicitly renounces any form of redress claims against 'ekey'.

Possible independent guarantee promises given to the ultimate buyer by 'ekey', e.g. as a Guarantee Certificate enclosed to the product, are a "limited product guarantee", which is independent of the guarantee claims of the buyer in the way they are stated under this point and those laid down by law in the particular countries – concerning this, see regulations in the following point 6.

### **5.10 Warranty for Programming Services and Software Products**

Notices of defects are valid only if they concern defects that are reproducible and if they are submitted within 4 weeks after delivery of the agreed service or, in the case of custom-designed software, after acceptance of the program in accordance with point 4, and documented in writing. In fulfilment of the warranty, rectification of defects takes precedence over price reduction or rescission of the order. If the notice of defects is justified, the defects are to be remedied within an appropriate period of time, and the buyer is to make available to the seller all measures required by the latter to investigate the problem and remedy the defects. The presumption of defectiveness in accordance with § 924 of the ABGB is ruled out.

Revisions and additions, which, before the agreed work is handed over, prove to be necessary because of organizational deficiencies or technical deficiencies in the program, and for which the seller bears responsibility, are to be carried out free of charge by the seller.

The costs for support provided, diagnosis of errors, remedying defects and failures that are the responsibility of the buyer, as well as other corrections, revisions and additions are to be carried out by the seller and the costs charged to the buyer. This is also the case for the remedying of errors when program revisions, additions or other interventions have been carried out by the buyer himself or by a third party.

Furthermore, the seller assumes no warranty for defects, failures or damages that are due to improper use, altered components in the operating system, interfaces and parameters, the use of inappropriate organizational resources and data carriers, insofar as these are stipulated, unusual operating conditions (particularly deviations from the installation and storage provisions) or damage during shipment.

For programs that are subsequently altered by programmers of the buyer or by third parties, any

existing warranty of the seller's is no longer applicable.

Insofar as the subject of the order is the revision or supplementation of existing programs, the warranty covers the revision or supplementation. The warranty for the original program does not thereby again come into effect.

## **6. Limited product guarantee**

If 'ekey' guarantees certain goods to be free from defects in material and treatment given in the Guarantee Certificate enclosed to the product, under certain conditions for a guarantee period laid down, the guarantee is a limited product guarantee, which grants the buyer the rights stated in the guarantee declaration but which does not limit the lawful guarantee claims of users/consumers according to the legal regulations of the country in which the product was bought. The guarantee performance may only be enforced in that country in which it was first sold to an ultimate buyer. It is explicitly pointed out that all guarantee claims granted by 'ekey' within the framework of a limited product guarantee, exclusively exist under the limits and exclusions referred to in the guarantee certificate and in the following:

- a) No guarantee claims can be accepted for products that were damaged or made unable to operate
- 1) by using the product for a purpose for which they were not intended, non-observance of the notes for the user contained in the Instructions for Use and/or in the Guarantee Certificate delivered together with the product, or by any other incorrect use of the product, e.g. if the contractually provided goods were operated together with such devices or programmes the compatibility of which was not explicitly confirmed by 'ekey',
  - 2) by changing the product,
  - 3) by attempts to repair the product by a third person, i.e. not by 'ekey' or a service partner authorised by 'ekey',
  - 4) by improper transport or improper package for the return of the product to 'ekey' or a service partner of 'ekey',
  - 5) by incorrect handling or as a result of mechanical load (such as percussions, dropping, high pressure or similar)
  - 6) by improper installation of products provided by third persons (e.g. memory modules),
- as well as for products that 'ekey' obtained from a sub supplier about whose property court proceedings due to insolvency was initiated at the time of the enforcement of the guarantee claims, or such proceedings were imminent. The guarantee period is basically six (6) months for accumulators and twelve (12) months following the delivery for LCD displays.
- b) Guarantee performance can only be claimed according to the particular mode laid down in the guarantee certificate: bring-in service, send-in service, etc. To enforce one's guarantee claims, please have a look to the mode of complaints as stated in point 5.3.
- c) If a complaint about defects is lodged within the framework of the limited guarantee during the guarantee period agreed upon, 'ekey'/the service partner will, at his own discretion, remove the claimed defects, exchange the faulty parts or issue a credit note about the purchase price; as far as the amount of a possibly issued credit note is concerned, see point Guarantee. The guarantee period will be neither prolonged nor interrupted by improvements or attempts to carry out an improvement. The enforcement of further claims by the buyer/user, particularly claims based on possible concomitant and resultant damage within the framework of the guarantee settlement is explicitly excluded, in any case, however, it is limited to deliberate or grossly negligent acting or default of 'ekey'. The fault is to be proved by the contract partner, as far as it is lawfully admissible. Possible claims are limited with the simple net value of the goods and the maximum sum amounting to a total of EUR 5,000.00. A liability for the loss of business opportunities, data or programmes and the loss of profit of the contract partner is excluded in any case.

## **7. Installation regulations and other technical regulations**

When using the delivered or repaired goods, the installation, operating and other technical instructions and notes are to be observed. 'ekey' takes no liability for damage of any kind arising as a result of overloading or improper treatment, operation, installation and others like that. A liability or guarantee for the compatibility with other products or systems or for a certain purpose of use is excluded. Further, 'ekey' has no kind of duty of warning or explanation, and any kind of liability and guarantee lapses in this respect.

## **8. Liability according to the Product Liability Law**

The contract partner explicitly waives the enforcement of compensation claims for material damage that he suffers within the framework of his business (sec. 9 of Personal Liability Law). In case the contract partner disposes of the goods that are object of the contract, to another entrepreneur, he

commits himself to impose the abandonment stated above according to sec. 9 of Personal Liability Law on this entrepreneur. In case this imposing should fail to materialize, the contract partner commits himself to indemnify 'ekey' and provide compensation for all costs arising in connection with claims of this liability. Should the contract partner himself, within the framework of the Personal Liability Law, be asked for liability, he will explicitly waive any redress against 'ekey'.

## **9. Copyright and Use**

The seller or his licensors are entitled to all copyrights on the agreed services (programs, documentation, etc.). The buyer obtains only the right to use the software after payment of the agreed remuneration strictly for his own purposes, only with the hardware as specified in the contract, and, in accordance with the number of licenses acquired, simultaneously at different workplaces. By this contract the buyer acquires merely the authorization to use the software. Further distribution of the product by the buyer is not permitted, as per the copyright law. The buyer does not by virtue of participating in the production of the software acquire any rights beyond its use as set forth in this contract. Any infringement of the copyrights of the seller will result in the right to claim damages, in which case the seller is entitled to full satisfaction.

The buyer is permitted to make copies for archival and data backup purposes only on condition that the software does not contain an express prohibition on the part of the licensor or a third party and that all notices of copyright and ownership are transferred unchanged into these copies.

Should the disclosure of the interfaces be necessary to produce the interoperability of the software covered by this contract, the seller is to request this of the buyer with remuneration of costs. If the seller does not comply with this stipulation and decompilation follows in accordance with copyright law, the results are to be used exclusively for the production of interoperability. Misuse will result in claims for damages.

## **10. Reservation of proprietary rights; Right of retention**

The goods remain the property of 'ekey' until all outstanding claims, no matter for what legal reasons (also from previous transactions), are paid completely. With a current account, the reserved property is valid as security for the debit balance. The enforcement of the reservation of proprietary rights does not mean a withdrawal from the contract and does not cancel the contract partner's duties, particularly the payment of the purchase price or of the compensation for repairs. During the existence of the reservation of proprietary rights, a disposal, treatment, pledge, transference of security or any kind of disposing of the goods bought or repaired to a third person is inadmissible. If the property is seized or damaged by a third person, we are to be informed by the contract partner immediately. The contract partner is obliged to compensate for the costs and measures for the removal of the interference, particularly the intervention process costs, e.g. removal proceedings, and others like that. The contract partner is obliged to take due care of the objects belonging to 'ekey' for all the time that the reservation of proprietary rights lasts. In the event of enforcement of the reservation of proprietary rights, the contract partner is to compensate for a possible reduction in value, regardless of who is to blame, and to pay an appropriate compensation for the use.

No title to the objects partly or wholly manufactured shall accrue to the buyer through processing of these goods: such processing is undertaken without consideration exclusively on behalf of the seller. If the retention of title should nevertheless expire for any reason whatsoever, the seller and the buyer now agree that title to the goods so processed shall pass to the seller, who shall be responsible for their transfer. The buyer remains their custodian without any claim to consideration. When goods which are still the property of another are processed, the seller acquires joint ownership (a property interest) in the new goods. The extent of such joint ownership is in proportion to the invoice value of the goods supplied by the seller to the invoice value of the remaining goods.

If despite that, the contract partner sells the object of delivery, he already now cedes all resulting claims against his customers, up to the height of the claims of 'ekey', for safety, who herewith accepts this cession.

The buyer hereby assigns to the seller the receivables arising out of any resale of the goods covered by retention of title, including any goods processed.

If the processed goods contain, in addition to the seller's goods covered by retention of title, only such objects which either belonged to the buyer or were supplied only under so called simple retention of title, the buyer will assign the entire proceeds of sale to the seller. If, however, a number of suppliers have rights of assignment in advance to the same goods, the seller is entitled to a fraction of the receivables in the proportion of the invoice value of the goods supplied by the seller to the invoice value of the remaining goods.

If the contract partner does not meet any of his commitments or if he stops his payments, the outstanding debt becomes payable despite a later maturity of the bill of exchange. In this event, 'ekey' is entitled to require the immediate return of the goods sold or repaired, while all rights of

retention remain excluded. After taking these objects back, it is within 'ekey's discretion either to sell the objects and to credit the achieved proceeds minus the sale expenses, to the contract partner to his other existing commitments, or to take back the goods at the purchase price minus a possible reduction in value.

To safeguard the claims of 'ekey' and also to safeguard the claims from other legal transactions, 'ekey' is entitled to keep back the things taken over for repair until all open claims are settled, including the claims from the legal transaction in question. In any case, 'ekey' is not obliged to carry out the repair as long as the contract partner has not settled the open claims.

## **11. Payment conditions**

The bill is payable after reception, without discount or any other deductions. The payment objectives may be revoked by 'ekey' at any time without giving any reasons. 'ekey' is entitled to deliver the goods only with advance payment or COD. For the case of a delay, regardless of who is to blame, interests payable on arrears amounting to 1 per cent per month are agreed upon. The contract partner has to compensate for all costs arisen in this way, e.g. out-of-court costs for payment requests, collection and lawyer. Cession bans and analogously identical General Terms of Business ("AGB") of the contract partner are ineffective. If a deterioration in the financial circumstances of the contract partner takes place, or if circumstances which could diminish his credit worthiness become known after the contract was concluded, all claims will become payable immediately. Further deliveries are only carried out against advance payment. We are also entitled to charge the payments already made to the costs incurred for interests, payment requests, collection and lawyer. In any case, the payments made will be basically charged for our oldest claims, regardless of the fact that the payment reason is explicitly different. Contrary remarks regarding this, on receipts or other documents of the contract partner will become ineffective. Employees of 'ekey' are not authorized to receive payments unless the contrary is explicitly agreed upon in writing. The contract partner is not entitled to settle the claim of any possible kind, unless they are explicitly acknowledged by 'ekey' in writing, or judicially established as legally valid. In the event of export business the contract partner is obliged to send all export and customs documents and others like that in the original back to 'ekey', otherwise the contract partner is obliged to pay possible fees imposed. If there are more contract partners, they are liable jointly and severally. Where orders encompass a number of units (e.g., computer programs and/or training sessions, completion in stages), the seller is entitled to submit an invoice after the delivery of each unit or service.

Payment on the agreed-upon dates is an essential condition for delivery and for fulfilment of the contract by the seller. Failure on the part of the buyer to comply with the agreed payment schedule entitles the seller to discontinue current work and to withdraw from the contract. All costs connected therewith as well as loss of profit are to be borne by the buyer. The buyer is not entitled to withhold payment because of incomplete total delivery, guarantee or warranty claims, or complaints.

## **12. Loyalty, Protection of Data Privacy, Nondisclosure**

The parties to the contract obligate themselves to reciprocal loyalty. They will not hire away staff or employ, including by way of third parties, staff of the other party to the contract who have worked on the realization of the projects, during the duration of the contract or for 12 months after the end of the contract. A party to the contract in violation of this clause is obliged to pay lump-sum damages in the amount of one annual salary of the employee.

The seller obligates his employees to observe the provisions of §15 of the Data Privacy Law.

## **13. Court of jurisdiction, applicable law, other regulations**

Austrian law applies to all disputes arising from this contract the applicability of the UN purchase right becoming explicitly excluded. The ineffectiveness of particular regulations does not affect the effectiveness of the other regulations of these terms of business. As far as the ineffective regulations are concerned, the parties to the contract enter an agreement to close the regulation loophole by means of the regulation closest to the ineffective one. For consumer shops according to the regulations of consumer protection law, the General Terms of Business are effective to the extent that they do not limit the conclusive regulations for consumer shops according to the legal regulations of the country in which the product was bought. The parties to the contract agree upon the cognizant courts in Linz, however, 'ekey' is entitled to file complaints with other courts provided that another court of jurisdiction is given.