



General Terms and Conditions

bqic GmbH (bqic)

The terms and conditions described in the following text form part of all business transactions between bqic and their contractual partner. They form a supplement to any agreements contained in specific contracts. Where the agreements contained in specific contracts differ from these terms and conditions, the terms specified in the specific contracts shall have precedence.

bqic reserves the right to review these terms and conditions from time to time, and to amend them with effect for future transactions. The current version of these terms and conditions can be retrieved at <http://www.bqic.de/>. Signed contracts for which mutual obligations have not been fully discharged shall only be affected by amendments to these terms and conditions if bqic expressly informs the contractual partner of the amendments, and the contractual partner does not oppose the amendments within a period of one month. When informing the contractual partner bqic will make express reference to the partners' right to oppose the amendment.



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1 General Stipulations for all Business Transactions

1.1 Applicable Law

German law applies.

1.2 Domicilium Executandi

For both bqic and the client, the domicilium executandi is Leipzig.

1.3 Domicilium Disputandi

If the client is a businesswoman/businessman, a legal person under public law, or a public law special fund, bqic can take legal action in their own general domicilium disputandi, and proceedings against bqic may only be brought at this domicilium disputandi.

1.4 Notifications

Declarations of intent and other notifications required within the framework of a business transaction may be submitted in writing, verbally, or in any other form. They may be conveyed through all known communication channels including the Internet. In this respect, the communication channels agreed for the business transaction, in particular e-mail addresses and messenger ID's, shall be used. bqic clerks are authorized only to accept declarations of intent and other notifications within the framework of their own area of authority, of which the client is appraised. They will act as the client's messenger by passing on any other declarations of intent and notifications.

1.5 Binding Effect

Declarations of intent only have to be considered legally binding if they allow the person submitting the declaration to be recognized with sufficient certainty and if it has been established that the declaration was not altered during transmission. This is assumed to be the case with respect to declarations submitted in writing and in the form of digitally signed texts.

For declarations of intent transmitted by telephone, telegraph, wireless, telex or other corresponding technical channels as well as unsigned documents bqic reserves the right to seek appropriate confirmation.

1.6 Confidentiality

Both bqic and the client will treat as confidential any information revealed to either party during the course of the performance of the contract, or that becomes known to them in any other way, and will maintain silence in relation to outside persons. Appropriate measures must be taken to protect any information that can be identified as a trade or business secret from unauthorized circulation. Any information, which has been encoded for transmission by bqic or the client, must be treated by the recipient as an external secret unless the information is commonly known or the sender recognizably has no interest in observing secrecy. If it has not been specially stipulated within a specific contract, disclosure to assistants is not considered a breach of confidentiality as long as the assistants have been personally bound to maintain confidentiality.

With regard to the transmission of information between bqic and the client, the transmission channel must be subject to adequate security measures. The transmission of non-encoded information via e-mail is not regarded as a breach against confidentiality if no specific opposition has been declared against open e-mail transmissions, or if the obligation to encode has not been agreed.

1.7 Payments Due

Services provided by bqic on behalf of the client shall be paid in accordance to the price lists applicable at the time. Services that are not included in the price list shall, if in doubt, be subject to a time charge. This also applies to services provided in the interest of the client in addition to standard, basic services, whether under instructions or, following management principles, without instructions, or that became necessary in the context of business relations with the client.

With regard to contracts for which mutual obligations have not been fully discharged and that do not cover a defined period, bqic may use their discretion to adjust remuneration with effect from the date on which the next statutory or contractual notice of termination would come into effect. bqic will inform the client of this adjustment and that he or she has the option to terminate the contract. If the client does not terminate the contract, the amended remuneration will be considered to have been agreed.

The client can be charged for all business costs and expenses incurred that bqic is entitled to deem necessary and which exceeded general business costs.

1.8 Offset

The client may only offset claims against bqic if his or her claims are undisputed or have been established as being legally valid.

1.9 Liability

bqic's legal liability is limited to intent and gross negligence. In the case that business transactions are transferred to third parties for independent implementation, bqic is liable only for the transfer of business including careful selection and instruction of the third party. Any liability for loss of profits to the client is excluded.

bqic is not liable for damages caused by operational malfunction, particularly if resulting from acts of God (e.g. war and natural events), or if resulting from other occurrences outside their responsibility (e.g. strikes, lockouts, transport problems, power failure), or if resulting from decrees passed by higher authorities in Germany or abroad.

Furthermore, bqic's liability is limited to damages that bqic should have expected on conclusion of the transaction on the basis of their knowledge of the client's circumstances. Unusually high damages will only be refunded if the client has specifically referred to the possibility of such damages arising.

1.10 Cooperation Duties

The client is bound to enable bqic to conclude the business in accordance with the contract. In particular, he or she must fulfil the following cooperation duties:

It is the client's duty to convey declarations of intent and information with care. When submitting declarations of intent or other information through telephone, telegraph, wireless or other corresponding technical channels, he or she must ensure that no transmission errors, misunderstandings, misuse or mistakes can arise.

The client must make specific reference to any special instructions regarding the execution of business. In particular, this applies to deadlines to be met.

The client must make available all documentation and information required for the execution of business. This applies particularly to documentation pertaining to existing systems, programs and parts of programs, which are to be combined with services provided by bqic.

The client is responsible for compliance with regulations, particularly those pertaining to the General Data Protection Regulation (GDPR). He or she must guarantee the security of the data stored in his or her computer and, should it become necessary, must ensure before the provision of services by bqic that important data files and programs are reconstructable.

2 Project Stipulations

2.1 Project Description

The scope of the services to be provided by bqic within the framework of a project arises from the project description. bqic's works within the framework of the project are services only, and as such they are to be remunerated as per the price list in accordance with the time and materials spent, provided that there has been no agreement otherwise. Additional costs for overtime arising from the client's particular deadline requirements are charged separately.

Provided that no agreed fixed price is contained in the project description, all the information provided by bqic with regard to the time and cost requirements expected for the project represents non-binding estimates based on the preconditions cited by the client. If the information provided is substantially exceeded, the client will be informed immediately. Excesses of estimates by more than 15% are considered substantial.

2.2 Poaching ban

The client shall not poach, hire or in any way employ (e.g. freelance work) any bqic personnel deployed with him or her for the purposes of a project. This obligation shall apply for two years after completion of the project.

2.3 Subcontractors

bqic have the right to subcontract to third parties all or part of the works transferred to them within the framework of a project. Any agreements pertaining to such work will be drafted in such a way as to comply with the data protection stipulations contained in the contractual relationship between bqic and the client.

2.4 Project variations

If proposed by bqic or the client the project description may be conjointly altered during the course of a project.

Proposed variations should be addressed to the project leader of the other contracting party, and should include a description of the scope of the variations. The client's proposed variations should include such information as will enable bqic to assess their effect on the execution, costs and timescale of the project. Variations proposed by bqic shall include estimates of the above-mentioned effects. The other contracting party must signal whether or not they agree with the proposed alterations to the project description within 10 days of receipt. The services agreed within the framework of the project description shall continue to apply for as long as there is no agreement on alterations of the project description.

The client is entitled to demand that the project description is altered if operational requirements make this necessary. bqic may reject such demands for changes unless they only have a minor effect on bqic's operational efficiency.

2.5 Deadlines

In the case that bqic's ability to provide services is obstructed by events that are not their responsibility, binding times for performance prescribed in the project description shall be extended by the same period as the duration of the obstruction plus an appropriate subsequent warm-up period. The same applies to any periods during which bqic are delayed by outstanding information or actions from the client.

2.6 Adjustment Requirement

If, during the course of executing the project, bqc identifies circumstances, which put in question the success of the project or adherence to the project plan, bqc shall inform the client. Thereupon the client shall take any decisions required to enable the project to progress rapidly.

2.7 Rights Pertaining to Completed Work

The rights of use pertaining to completed project work shall be transferred to the client. However, bqc shall retain exclusive and unlimited copyright on the completed works, as well as the rights arising therefrom on any extension and adaptations required. bqc is entitled to issue licenses or grant rights of use to third parties, including the client's competitors.

3 Stipulations Pertaining to the Provision of Software

3.1 Scope of Provision

If not agreed otherwise, bqc's obligations with regard to the provision of software encompass the provision of the workable program, including an appropriate description to facilitate the program's use (user documentation). The user guide and user documentation can be drafted in the English language. A printed manual will only be considered part of the scope of provision if this has been specifically agreed.

3.2 Installation

If the client requests that bqc installs the software, bqc's scope of works shall only include the installation of the supplied software in the client's computer to permit the supplied software to be booted. Only if previously agreed with the client is there an obligation to integrate the supplied software into the client's system. In this case, bqc shall carry out specific adaptations and expansions of the software, and shall check the executability of the software in the client's system within the bounds of technical feasibility and financial viability.

3.3 Quality Assurance

bqc checks that software supplied by third party providers conforms to German security standards, and also checks against viruses using commonly available virus registers and anti-virus programs.

3.4 Conditions of Use

bqc guarantee that software developed by themselves is executable with specific hardware configurations and that it is operational in combination with specific computer programs. These conditions of use arise from the respective software's performance description, which the client may request from bqc. The application risk for the use of the supplied software with other hardware configurations or its operation in combination with computer programs other than those specified in the conditions of use lies with the client.

3.5 Customized Software

Any software solutions produced by bqc to meet the client's specific requirements shall be developed within the framework of a project. The project shall be concluded with a pilot run to test the software solution. The test will be deemed successful if the programs meet the requirements specified in the project description. On completion of the pilot run bqc will report the handover of the software to the client. The client shall thoroughly test the software solution within a period of four weeks after handover and declare acceptance.

The client must immediately inform bqic of any defects that prevent acceptance, and these will be corrected free of charge. After this the software will again be submitted for acceptance. The client must declare acceptance within four weeks or submit his or her notice of any defects that more than insignificantly restrict the usability of the completed works. Otherwise the software solution shall be deemed to have been accepted. Minor defects shall not prevent acceptance; they will be recorded as defects and are covered by the defects liability guarantee.

3.6 Defect Notices

The client must comprehensively inform bqic of any defects. All information relevant to identifying the cause of the defects must be included with the notice of defects. Where defects are complex or difficult to comprehend, the client will assist bqic to comprehend the defect and, if required, will allow tests to be run on his system.

3.7 Defects Liability Guarantee

bqic's defects liability guarantee extends primarily to rectification of defects. bqic will classify defects notified within the defects liability period of six months as defects of class A, B and C. Defects that prevent the application of the software and make it impossible to use the defective object, and which the client cannot reasonably circumvent (class A defect), will immediately be localized by bqic and remedied within the framework of available capacities.

Defects that impede the application of the software, causing more than minor difficulties in the use of the defective object, and for which there are evasive manual options that the client may reasonably be expected to take (class B defect), will as a rule be remedied by bqic within a month of receipt of the notice of defects.

Any other defects (class C defects) will be remedied during the course of updates within a reasonable period.

3.8 Updates

bqic will provides the client with updates that serve to remedy major defects, remedy any other defects, and improve the software's performance. bqic will makes these available for retrieval from the internet in archival form. The archive contains packed versions of the object programs and user documentation.

3.9 Upgrades

In order to expand and increase the performance of their own software, bqic develops upgrades that are available to so authorized clients. With regard to their own software, bqic reserves the right to make alterations in order to remedy defects or increase performance. Any such changes may require the client to replace or adjust earlier software versions.

3.10 Scope of License

With regard to third party software supplied by bqic, the third party's licensing conditions shall apply. With regard to software developed by bqic, and unless otherwise agreed, the client acquires non-transferrable, non-exclusive rights of use in the Federal Republic of Germany. Notwithstanding these rights of use, no rights are transferred to the client. This applies specifically to all copies or partial copies of the software generated by the client, and regardless of ownership of machine readable recording mediums, data storage or computers. The stipulations of the rights pertaining to completed work apply to bqic's customized software.

3.11 Right of Use

The right of use includes the right to store (copy) the software in its entirety or part thereof in a computer, to execute the programs, to process data files and to produce additional machine readable copies of the material in so far as this is required for use as per the agreement. The software may be used on every available computer, whereby the software installed on machines to be replaced will have to be deleted before the replacement takes place. Its use within a network or other multi-station computer system is not permitted without specific permission or if required for use other than as per the contract. Use as per the contract includes the production of backup copies of the software. Backup copies must be described as such.

3.12 Adaptation

The client is entitled to observe and test the supplied software during its run, storage and communication, and to have the processing results displayed on the monitor. He is permitted to link the software to other computer programs. Any back translations of parts of programs for the purpose of producing interoperability between an independently produced computer program and other computer programs are subject to the appropriate statutory provisions.

3.13 Prohibited Actions

The client is not permitted to amend or remove serial numbers, program-identifying distinguishing features, notes on industrial property rights, notes on copyright and other legal conditions contained in the software. All complete and partial copies must contain these in their unaltered entirety.

The client is not entitled to carry out changes, translations, other adaptations or reorganizations of the software. The human interface of the software must not be changed. A back translation of the software to source programs or other display forms is equally prohibited.

Neither the original software nor entire or partial copies thereof may be made accessible to third parties without specific previous agreement. This also applies in the case that the client's company is partly sold or dissolved. The client's employees are not considered third parties, neither are other persons as long as they are working with the client for contractual use of the software. Such persons must be positively informed of the requirement to comply with the rights of use and copyright regulations.

4 Stipulations Pertaining to bqic's Trademarks and Industrial Property Rights

4.1 Scope of Licenses

Licenses awarded by bqic encompass the non-exclusive and non-transferrable authorization of use by the client of trademarks and other industrial property rights covered by a particular license. He or she must refrain from doing anything that may damage or adversely affect bqic's reputation. The client is not entitled to use the trademarks as if constituting part of his or her company, as his or her Internet domain name or in any other form to identify his or her business establishment.

4.2 Trademark Specifications

The client may only use trademarks in the form detailed in the trademark specifications. The client is authorized to use the trademarks in advertising for approved services contained in a particular trademark specification. The trademark specifications contain guidelines for the correct reproduction, display and presentation of the trademarks. They contain the individual trademarks, advertising examples and clipart files for the determination of colors, proportions and formats. The trademark feature must be indicated by additions such as 'registered trademark' or ® for every use of the trademarks.

bqic is entitled to amend the trademark specifications at their discretion in order to protect the value of the trademarks.

4.3 Client's Duty to Assist

The client is bound within the framework of legislation to support bqic in upholding industrial property rights for which he or she has the rights of use, and to inform bqic of any existing or possible infringement of industrial property rights. However, it is at bqic's sole discretion to decide how to react to such infringements.

5 Ongoing provisions

Confidentiality must be maintained at all times, even after the contract has been discharged or the business relationship terminated.