



GENERAL TERMS AND CONDITIONS (GTC)

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I. General conditions

§ 1 Scope and subject matter

1. These general terms and conditions (GTC) constitute the legally binding contractual framework for the legal relationship between The Quick Brown Fox GmbH (in the following "QBF") and their customers.
2. The GTC are subject to periodical monitoring that can entail changes and adjustments.
3. For lack of other agreements, those terms and conditions are applicable that were available at the address "<http://www.qbf.de>" (under "GTC") at the time of the agreement. You may request the GTC from QBF at any time and/or download them at the internet site "www.qbf.de" and save them.
4. As part of ongoing agreements, the customer has the right to object to changes in the GTC within two weeks. The altered version of the GTC becomes part of the contractually agreed-upon GTC after the expiry of the opposition period. In the case of objections QBF may terminate ongoing agreements.
5. Contradictory customer terms and conditions are invalid. QBF does not acknowledge contradictory conditions or conditions at variance to these GTC unless QBF has expressly agreed to their validity. These GTC also apply if QBF performs services to customers while aware of contradictory customer conditions or conditions at variance to these GTC.

§ 2 Definitions

1. Customers in the sense of these GTC are companies, i.e. natural or legal persons or partnerships with legal capacity that enter into a business relationship with QBF and who pursue commercial or independent professional activities (§ 14 BGB [German Civil Code]).
2. Delivery of items in the sense of the GTC includes the physical transfer of objects, digital duplication and distribution (download/upload/FTP) of immaterial items and/or the relinquishment of access and/or login data, as well as the installation of software programs (beginning with the first draft/raw/test version), the installation of interfaces, the creation of additional programming, data migration, the performance of workshops for systems analysis and/or consulting, customizing, training and documentation. The source code of delivered software is not part of any agreement unless this is expressly agreed upon in writing.
3. All texts, images, illustrations, web sites, and multi-media creations, reports, analyses, models, templates, style sheets, computer programs (source and object code), customer internet portals, data bases, and other creations and/or concepts, know-how, and economic products created by QBF are subject to copyrights. If in individual cases the requirements of a creation in the sense of § 2 UrhG [German Copyright Law] are not met, the parties shall nonetheless agree to the corresponding application of copyright law for these creations.



§ 3 Participation requirements

1. QBF deliveries and services may only be used in accordance with the agreements made and these GTC.
2. It is prohibited to revise and/or alter the software etc submitted by QBF or to take actions that could impair the function of the goods and services of QBF. It is also prohibited to duplicate this software etc. or make it available to third parties for use.
3. Decompiling is not permitted.
4. The customer is obligated to present a functional hardware and software environment of sufficient dimensions, in particular in view of the additional load caused by the software to be submitted.
5. The customer shall furnish the desired test environment. He shall test the submitted software for errors and usability in the existing hardware and software configuration before use (live operation).
6. The customer shall make suitable arrangements for the case that the software completely or partially fails to operate correctly, in particular he shall make daily data backups and regularly check the data processing results.
7. The customer shall name a competent contact person to centrally coordinate the installation and shall immediately inform QBF in writing per e-mail to "info@qbf.de" of changes and amendments that have an effect on the performance of the services (e.g. relocation, change of e-mail address) and the contractual relationship (e.g. change of name).
8. The customer shall make the necessary information (data), interface definitions, specifications, or content (texts, images, logos, forms, article lists etc.) available to QBF. This includes any necessary access data for the customer's authorization and access control systems. The customer alone is responsible for the creation of information and data and their transfer. QBF is not obligated to verify whether the data and information provided by the customer are suitable for the objectives pursued with the agreement.
9. For services QBF has to provide to the customer, the customer has to name a responsible person who is the sole contact person for QBF for the preparation and execution of the services and for the necessary participation of the customer.
10. If it is agreed that content shall be supplied to the customer in digital form, the respective data format must be specified.
11. Deficits and errors shall be reported in a specified form with concurrent submission of suitable and reasonable descriptions and documentation to the e-mail address specified for this purpose.

§ 4 Contract conclusion

1. The offers and order forms from QBF that are targeted towards an agreement are exclusively directed at companies.
2. The placement of an order for a service by the customer does not yet constitute a contract. The order of goods or request for a service by the customer merely constitutes a binding offer to QBF to engage in a contract.
3. The contract between QBF and the customer arises either when the ordered service is performed or when a separate written contract document is submitted to QBF.
4. The customer carries the risk of conveyance, in particular for unclear, incomplete, or otherwise deficient conveyance of statements about the order.

§ 5 Compensation rules

1. All prices are understood not to include turnover tax, travel costs, expenses for training, workshops, and installation.
2. Payment of the order sum becomes due in three phases for ARAMIS and ARAMIS web portals:
 - a) The first 40% of the order amount is due with the order.
 - b) The second 40% of the order amount becomes due with the first installation (§ 2.2) of an ARAMIS version.
 - c) Four weeks after the first installation, the final 20% of the order sum becomes due.
3. Payments for software support agreements for ARAMIS and ARAMIS web portals are due as follows:
 - a) The software support fee shall be payable each contract year and/or in net payment in advance at the beginning of the contract but at the latest within 14 days after invoice date.
 - b) If the service relationship begins within an already begun calendar year, the service price is calculated for the term of a year.
4. The customer is considered late with his payment if he is 7 working days late. Separate reminders are not necessary.
5. If the customer becomes partially or completely late with his payment he must pay late payment interest at the rate of 8% annually above the base rate of the European Central Bank unless QBF is able to prove even greater damages. This does not affect any other right QBF may have.
6. If the customer stops payment, if there is a debt overload, if there is adjudication in insolvency, or if the customer becomes late with the redemption due of back drafts or checks then the entire debt owed to QBF becomes due immediately. The same applies in the case of any other significant deterioration of the economic situation of the customer. In these cases QBF is entitled to demand sufficient collateral security or in the case of fruitless expiration to withdraw from the agreement in order to effect payment in kind or securities.
7. Payment must be made also in the case that the customer does not use the service and goods provided by QBF. Price reductions or reimbursement of the purchase price due to lack of use by the customer are excluded.

§ 6 Delivery and service deadlines

1. The delivery and service deadlines depend on the respective goods and services that QBF provides to its customers. More detailed information can be found in the respective contracts.
2. Delivery and service deadlines become binding only when QBF has submitted or confirmed them in writing.
3. If nothing else has been agreed upon, deliveries are made to the customer at the provided delivery address.
4. Deliveries of goods are made at the risk of the customer.
5. Delivery and service deadlines are met if the goods have been delivered before the deadline determined in writing, if the services have been performed or in the case of a remote transfer even when QBF has sent out an availability notice per e-mail in the case that the product has not yet reached the customer system. They are also considered to be met if minor touch-ups and/or customization work is necessary, as long as the usability and operational readiness of the goods or services are not impaired.



6. In the case of impediments the delivery dates are extended as follows: If QBF has to wait for participation of or information from the customer or if QBF is impeded in its services by strikes or lock-outs in third-party companies or its own company (in this case only if the labour struggle is legal), official intervention, legal prohibitions, or other circumstances that are not its fault ("force majeure") then delivery and service deadlines shall be considered extended by the duration of the impediment and an appropriate run-up period after the end of the impediment ("down time") and no violation of duties occurs for the period of the down time. QBF shall immediately inform its customers of such impediments and their probable duration.
7. If the force majeure lasts more than 90 days without interruption, either party shall be entitled to withdraw from the contract by unilateral, written statement without the provision of reasons and is set free of its respective service responsibilities.

§ 7 Retention of ownership

1. QBF retains all rights to all goods that have been delivered to the customer until payments have been made in full for the goods.
2. The delivered items remain property of QBF until the complete payment of all claims arising from the business relationship with the customer.

§ 8 Warranty and liability

1. QBF guarantees that at the time of shipping/inspection the goods are free of errors that reduce or void the value and functionality of the goods for its standard use. An insignificant reduction of the value or functionality shall be disregarded.
2. The customer shall inspect the goods for completeness or possible defects upon receipt of delivery. In the case of obvious deviations he shall inform QBF of the deficit in writing within two months. An obvious deficit exists if the average customer can notice it without significant testing efforts. In the case of hidden defects a notification shall be issued within the warranty period after the hidden defect was noticed. The post date shall determine the timeliness of the notification.
3. For dealers the regulations of § 377 HGB [German Trade Law] apply. The warranty period is one year. It begins with receipt of the goods at the customer and/or with inspection of the service by the customer.
4. If goods are delivered with obvious damage to the packaging, the customer shall immediately indicate this to the shipper and refuse acceptance of delivery. In addition they shall contact QBF immediately and report the damage.
5. The warranty claims of the customer are limited to supplementary performance in the form of deficit removal or delivery of a deficit-free item.
6. Warranties do not apply for deficits that are the result of improper use or above-average stress by the customer.
7. QBF is liable for intentional acts and gross negligence independent of the legal argument for the warranty and for harm to life, limb, or health, as well as claims from the German Product Liability Law. This also applies to subcontractors and legal representatives of QBF.
8. Other than that any liability by QBF for slight negligence is excluded, with the exception of the violation of contractually determined duties or harm to life, limb, and health, as well as claims from §§ 1, 4 German Product Liability Law. The same applies for liability of subcontractors and legal representatives of QBF.
9. In the case of violations of essential contractual duties and significant violations of contractual duties QBF is liable for cases of personal and property damage outside those mentioned in § 8 Sec. 7 and 8, limited in amount by the contract-typical, predictable damages.
10. In all other cases, outside personal and property damage described in § 8 Sec. 7 and 8 and the violations listed in Sec. 9, the liability of QBF is limited to the contractually owed remunerations, up to 25,000 EUR.
11. QBF is not liable for the legality of the contents, data, and creations provided by the customer. The customer assures QBF that he is authorized to use the contents, data, and creations necessary for QBF to provide its contractually agreed-upon services and that no third-party rights are violated by the contractual agreement with QBF. QBF expressly distances itself from all contents. QBF is not obligated to verify the content for possible legal violations.
12. The customer holds QBF free of any third-party claims in connection with violation of the warranty from § 8 Sec.11 of these GTC and shall replace any legal defence costs for this. The customer undertakes to support QBF in the defence against such claims to the fullest extent, in particular by providing information and receipts for sources and rights.
13. The customer undertakes to inform QBF immediately of legal claims by third parties.
14. Any other claims of QBF against the customer remain unaffected by this.

§ 9 Rights agreement / copyrights and ancillary copyrights

1. QBF retains all rights to all creations (compare § 2 Sec. 3) and other intellectual or commercial copyrights, as well as similar performance rights developed, used, or made available according to these GTC, in particular rights to software including source code, data bases, hardware, or other materials such as analyses, development, documentation, and reports, as well as preparatory materials. All rights remain exclusively with QBF or its licensors.
2. The customer obtains a simple usage right and the rights that were explicitly granted in these GTC, individual contracts, or in any other way unless nothing different was agreed upon in the individual contracts.
3. Duplication, distribution, or passing on, even to connected companies in a group, is expressly forbidden. Exceptions are subject to express consent by QBF.
4. In order to perform contractual services, QBF uses names, titles, and brands for which only QBF or its licensors own the rights. Without express agreements the customer does not receive any usage rights for these.
5. If the customer makes copyrighted material available to QBF in order to perform its services, he conveys upon QBF all duplication, alteration, distribution, and publication rights necessary to complete the contractually agreed-upon services.

§ 10 Data protection and confidentiality

1. Personal data are collected, stored, and processed without separate approval only for the purpose of processing and implementing contractual relationships that are in negotiations or preparation or to execute concluded agreements. They are treated strictly confidential and are not passed on to third parties that are not part of the agreement.



2. Apart from that the legal stipulations of the Federal Data Protection Act (Bundesdatenschutzgesetz BDSG), the Broadcasting State Agreement (Rundfunkstaatsvertrages RStV) and the Tele-media Act (Telemediengesetzes TMG) apply.
3. The parties are obligated to use any information, documentation and business secrets made available to them in connection with contractual negotiations and/or concluded agreements only for the conduction of negotiations and/or execution of the contract and generally treat them confidentially. They are also obligated to treat all information and documentation strictly confidential, in particular to protect them from being read by third parties.
4. This also applies for those persons and representatives that become active in the respective area and must in turn be held to confidentiality (secondary confidentiality).
5. Making documents available to third parties is only permissible with written consent.
6. The confidentiality obligations persist even after the expiration or termination of this contract.

§ 11 Written form

1. If written form is agreed-upon or stipulated in these GTC or in the contracts offered by QBF this means statements using telecommunications, i.e. letters or text form, i.e. telecopy and/or fax or e-mail (§ 127 BGB [German Civil Code]).
2. Exceptions require specific agreements.

§ 12 Transfer and offsetting prohibition, rights of retention

1. The transfer of rights from agreements and the transfer of the entirety of these agreements by the customer require previous written consent of QBF.
2. Customer offsetting of QBF claims from these contracts or connected extra-contractual claims is only permissible if the payable counter-claim is legally verified or undisputed.
3. The customer is entitled to retention rights only for claims from individual specific contractual relationships.

§ 13 Applicable law, jurisdiction and severability clause

1. German law is applicable for all legal relationships of the contractual parties, excluding the United Nations Convention on Contracts for the International Sale of Goods.
2. The jurisdiction for any claims arising from or in connection with the contractual relationship as well as regarding existence or non-existence of the contractual relationship is Cologne/Germany; the only exception being the determination of a different jurisdiction either in the present Terms and Conditions or by the German law.
3. In the case of a countersuit against QBF the court responsible for the business headquarters of QBF has exclusive jurisdiction, excluding a counter-suit jurisdiction for the court responsible for the customer's business headquarters.
4. Should a stipulation of these GTC be or become partially or completely invalid this shall not affect the validity of the remaining stipulations.

II. Software support agreement

§ 14 Subject of the agreement

1. The user commissions the company The Quick Brown Fox GmbH (in the following QBF) with the performance of software support for:
 - a) the ARAMIS – core program and/or
 - b) the ARAMIS web portals and/or
 - c) the ARAMIS GS core program

§ 15 Duration of Agreement

1. The support agreement has an open-ended term and may be cancelled in writing by either party with three months notice at the end of each contract year.
2. Software support begins with the conclusion of this support agreement.
3. Increases of personnel or material costs may lead to an increase of service prices. QBF will adjust service prices, in particular after the expansion and/or acquisition of additional software, modules, programs, licenses (also for web portals in the case of the connection of several client/servers) etc. as this would result in an increased support costs for QBF. QBF is entitled to increase accordingly the agreed-upon service process at least once a year with 60 day's notice. In this case the user has the choice of cancelling the agreement for all or for individual programs 30 days before the price changes take effect. Future increases and/or reductions of the turnover tax rates will also affect the prices of QBF without requiring a separate notification.

§ 16 Services by QBF

1. Software support is guaranteed and performed during regular QBF business hours.
2. The user receives individual support to answer specific application questions and to remedy errors. If needed, the support service may include support via remote access to the user system.
3. The customer will receive updates with the release of updated software versions. The updates contain all of QBF's improvements and modifications of the standard software made in the meantime.
4. The user is obligated to use the upgrades, in particular patches, updates, and comparable error corrections.



5. QBF shall correct error in software if it does not operate according to the program description despite adherence to the instruction manual. Prerequisite is that the error is reproducible and is contained in the latest program version. QBF reserves the right to determine the method of error removal. QBF points out the obligation to provide specific deficits and errors with accurate descriptions of the errors and the context.

§ 17 Maintenance exclusions

1. User data restoration.
2. Removal of damage that was caused by the intervention of unauthorized third parties or in connection with such interventions.

§ 18 Termination

1. QBF is entitled to terminate this agreement prematurely without notice, in particular if
 - a) the customer is partially or completely in default for more than two months;
 - b) the user makes changes to the program without prior consent by QBF;
 - c) an adjudication in insolvency for the customer's assets is applied for.
2. QBF is entitled to terminate this agreement without notice if the customer repeatedly and significantly violates contractual regulations.
3. This notwithstanding, both parties retain the right to terminate the contract for significant reasons.

§ 19 Special agreements

1. The user may not transfer rights and obligations from this agreement to third parties without prior authorization by QBF. In terms of user software rights the corresponding conditions of the GTC of QBF apply.
2. QBF is entitled to transfer the fulfilment of its obligations from this agreement to a suitable company and/or expert in part or completely.