

Terms and Conditions

1. Scope

These terms and conditions apply to dealings between clients and bfa solutions ltd, Industriestrasse 1, CH-8117 Fällanden related to products and services – fee-based or free of charge – to the extent that they are declared applicable and do not deviate from any written provisions. These terms and conditions serve as basic terms of contract and apply without express reference to all contracts between the parties. Any business or purchasing conditions of the client are deemed excluded.

2. Confidentiality and Copyright

2.1 Confidentiality

bfa solutions ltd is bound at all times to keep confidential all information related to processes and procedures made known to it by the client in the course of project work. This duty also applies to all bfa employees.

The client will treat as confidential all information made available to it by bfa solutions ltd. In particular it is not permitted to transfer software concepts, software parts and documentation to third parties without the written permission of bfa.

The client agrees and takes notice of the fact that in the context of providing its services bfa solutions ltd can obtain access to data and databases of the client. It is the responsibility of the client to give notice of any relevant provisions and regulations.

2.2 Licenses

The agreement can include licenses from standard products of bfa solutions ltd and/or third party firms. In these cases there exists a non-exclusive, non-transferable and non-expiring right to use of the software in question. The right to use applies exclusively to the scope of this agreement; any further use is forbidden.

The client shall sign the agreed-upon, verifiable license agreements before work completion.

2.3 Intellectual property

Project-specific documents as well as possible source codes developed in the course of the project will be handed over to the client after project completion. The information and the code utilized in a project that are a licensed standard module of bfa solutions ltd, remain with the supplier.

bfa solutions ltd may have all developed concepts and technical expertise at its disposal, to the extent that they are not to be implemented in the application, which are identifiable as in direct competition to the application of the first-time client. In unclear cases bfa solutions ltd is bound to obtain a corresponding written authorization from the client for whom the product has been developed originally.

3. Standards and specifications

This offer is based on the assumption that no client-specific standards and specifications must be met (for example; maritime standards, FDA-regulations, MIL-Specs). Should the inclusion of such further standards and specifications be called for, they must be specified in writing by the client. In such cases bfa solutions ltd may apply additional costs.

4. Warranty

4.1 Engineering and software solutions warranties

bfa solutions ltd gives a warranty of 12 months for solutions created by it. The warranty starts from the day of acceptance by the client. Possible defects must be noticed in writing. A performance or characteristic which does not meet the needs of the user, but was not clearly defined in the description of the scope of performance, cannot be counted or noticed as a breach of warranty.

There are 2 distinguishable types of defects:

- Minor obstacles that constrain production only minimally but do not reduce productivity.
- Critical occurrences which lead to severe production downtimes

In the case of a critical occurrence, bfa will use its best efforts to respond and solve the problem. Minor obstacles will be noted and rectified in the next version of the software.

Place of execution of the warranty is the place of domicile of bfa solutions ltd. In order to minimize down-time and to keep costs to a minimum, we strongly suggest, wherever possible, to allow remote maintenance.

4.2 Third-party software warranties

Should a software defect occur which can be clearly traced to a defect in the software delivered by a third party, bfa solutions ltd will use its best efforts to find a means to circumvent these defects. Should this not be possible, bfa solutions ltd cannot be made responsible for the corresponding deficiencies. All statutory warranties of bfa solutions ltd for third party software are excluded.

4.3 Hardware warranties

If in the course of this project hardware components are included, the warranty provisions of the hardware supplier apply. Place of warranty execution is the firm domicile of bfa solutions ltd.

4.4 Liability

bfa solutions ltd is liable for verifiable, negligently caused, direct and immediate damages. The amount of damages per occurrence is limited to a maximum of CHF 30'000. Each subsequent liability including those for direct damages, for consequential damages, for loss of data or third party claims for loss of profits or non-realized savings is, independently of the governing law, excluded.

4.5 Acceptance

After completion of the assignment an acceptance form will be issued, which will list any possible defects and desired alterations and give a time frame for correction of said defects.

Acceptance may be called for by bfa solutions ltd as soon as it has completed the scope of work agreed upon. The client must respond to this request, even in the case where system parts of third party firms not yet are available and therefore a complete system test is not possible.

The period of warranty begins after successful acceptance.

5. General terms

5.1 Electronic communication

Communications in text form, which are sent and saved through electronic media (email, SMS) count as written communications to a party.

5.2 In-writing requirements

Changes, notices and addendums to a project must be in writing. Such writings are to be redirected to the respective project managers.

5.3 Project references and marketing

By assignment of the project the client gives its agreement that bfa solutions ltd may list the project in its marketing communications as a reference. Publications will be presented to the client for approval.

5.4 Project-related documents

Documents related to the project will be stored for 10 years, at the end of which time they will be destroyed without any further notice. Should a deviation from this rule be required, the client must indicate the terms of the deviation in writing at the time of making an order, additional charges may apply.

5.5 Savings Clause

Should individual provisions of these terms and conditions be partially or totally void and/or unenforceable, the validity and/or applicability of the remaining provisions, or parts of said provisions, will remain intact. The void and/or unenforceable provisions will be replaced by provisions that most closely reflect the spirit and purpose of those that are replaced both from a legal and business standpoint.

5.6 Choice of Law

The terms and conditions are governed by Swiss law. The Vienna Convention on International Sale of Goods is excluded and non-applicable.

In all cases of dispute the court of the domicile of bfa solutions ltd has sole jurisdiction. bfa solutions ltd is however at liberty to also invoke the jurisdiction of the court of the domicile of the customer.