Terms and Conditions

1. General

1.1. These General Terms and Conditions of Contract (hereafter referred to as AVRB) apply to all business relationships and contracts between the *Institut für Regional- und Fernverkehrsplanung iRFP* e. K. (hereafter referred to as *iRFP*) and their business partners (hereafter referred to as *contractual partners*), irrespective of their legal form.

1.2 Deviating general terms and conditions of business or contract of the contracting partner shall not become part of the contract unless confirmed in writing by iRFP. This shall also apply in the event that iRFP performs services in the knowledge of conflicting or deviating general contractual or business terms of the Contractual Partner without reservation or objection.

1.3 Modifications to the GTCP in individual contracts are permitted. They may also be agreed subsequently if iRFP has reason to do so. Any modifications must be agreed on in written form. This requirement may not be withdrawn either verbally or impliedly. Agreement on general modifications to the AVRB shall be reached by customary notification and non-objection within one month.

1.4 The use of products or services provided by iRFP does not release the contractual partner from their obligation to comply with the legal or technical framework conditions and engineering-scientific procedures applicable at the time.

2. Conclusion of Contract

2.1 Offers made by iRFP are subject to change and non-binding unless the offer is bindingly designated in writing. A legal commitment shall only be established by a contract signed by both parties, by written confirmation of the order by iRFP, or by the fact that iRFP begins to provide services in accordance with the contract after the order has been placed. iRFP may require the contractual partner to confirm verbal contractual declarations in writing.

2.2 The Contractual Partner shall be bound to declarations on the conclusion of contracts (contract offers) for four weeks.

3 Subject Matter of Contract, Extent of Services

3.1 Object of iRFP's services is the permanent provision of standard software (hereafter referred to as *contractual software*) in accordance with the license granted, including the associated user documentation, and the granting of the rights of use to this software in accordance with § 4. A separate contract (§ 14) must be concluded for the maintenance, servicing, and updating of the software provided. The delivery of other goods and services, such as hardware deliveries, setup and installation of the software, training, creation of individual software as well as engineering services shall also be provided on the basis of a separate contract.

3.2 Specific services contractually owed by iRFP shall be derived from the respective individual contract, iRFP's order confirmation or, in the absence of a contract or order confirmation, from iRFP's offer. Other services, specifications or requirements shall only become part of the contract if the contracting parties agree on in writing or if iRFP has confirmed in writing. Subsequent changes to the extent of services require written agreement or written confirmation by iRFP. Unless an individual contractual agreement has been made, iRFP shall provide all deliveries and services in accordance with the state of the art.

3.3 Product descriptions, representations, test programs, etc. are merely descriptions of performance and do not constitute warranties. A warranty requires a written declaration by iRFP. Prior to the conclusion of contract, the contractual partner has verified the specification of the software corresponding to their requirements. They are aware of essential functional features and conditions of the software.

4. Copyright, Grant of Rights

4.1 The contractual software (program and user manual) is legally protected. The copyright, patent rights, trademark rights, and all other service protection rights to the contractual software as well as to other objects and services that iRFP provides, transfers, or makes accessible within context of initiating and executing the contract, are exclusive property of iRFP in relationship between the contractual partners. These rights include in particular logos, organization and structure of program files, appearance, documentation, and program code. Insofar as third parties are entitled to the rights, iRFP shall hold the corresponding exploitation rights.

4.2 The contractual partner shall be given a non-exclusive right to use the contractual software for an unlimited period of time. The contractual software may only be used simultaneously by the maximum number of natural persons corresponding to the number of licenses acquired by the contractual partner. A license for use is granted by providing the license plug (dongle), otherwise by electronically sending a license key. The permissible use includes installation of the contractual software, loading into the working RAM as well as the intended use by the contractual partner. The number of licenses as well as type and extent of use shall otherwise be determined in accordance with the individual contractual provisions and, subordinately, in accordance with the provisions of these terms and conditions.

4.3 The contractual partner shall not be entitled to lease or sublicense the purchased contractual software, to publicly reproduce or make it accessible by wire or wireless means or to make it available to third parties against payment or free of charge (for example by application service providing or as "software as a service"). The right of permanent transfer to a third party according to Paragraph 5 shall remain unaffected.

4.4 If required to secure future use, the contractual partner shall have the right to create backup copies. However, they shall be under obligation to visibly display the note "Backup Copy" as well as a copyright notice of the manufacturer on the backup copies made.

4.5 The contractual partner shall also be entitled to permanently transfer the acquired copy of the contractual software to a third party by handing over the license key, the license plug and the documentation. In this case, the contractual partner must completely and permanently stop using the program, remove all installed copies of the program from their computers, and delete all copies located on other data carriers or hand them over to iRFP, unless the contractual partner is legally obligated to retain them for a longer period of time. Upon request by iRFP, the contractual partner shall confirm in writing that the aforementioned measures have been carried out in full or, if applicable, explain the reasons for longer storage. In addition, the contractual partner explicitly commits to agree with the third party on the extent of the grant of rights (§ 4). Insofar as the contractual partner has acquired a plurality of licenses, the granting of individual licenses to third parties is not permitted.

4.6 If the contractual partner uses the contractual software to an extent that exceeds the acquired rights of use qualitatively (type of permitted use) and/or quantitatively (number of acquired licenses), it shall immediately acquire the rights of use necessary for permitted use. If he fails to do so, iRFP will assert the rights to which he is entitled.

4.7 The contractual partner is not permitted to remove, change or make unrecognizable copyright notices, serial numbers, the license plug or other features of the contractual software that serve to identify the program.

5. Rates and Payment Conditions

5.1 The agreed payment shall be due without delay after delivery of the contractual software and receipt of the invoice by the contractual partner and shall be payable within 14 days, unless otherwise agreed by the parties. In case of delivery of other services and supplies (software maintenance, hardware supplies, setup and installation of software, trainings as well as the creation of individual soft-

ware), the payment shall be due in the absence of a separate agreement upon performance of the service and receipt of the invoice, in case of software maintenance annually in the middle of the calculation period after receipt of the invoice and shall also be payable within 14 days.

5.2 In case of the creation of individual software, iRFP shall be entitled to demand partial payments in accordance with the respective status of the services provided or the separately established payment schedule. The due date for partial payments shall be the date of receipt of a partial invoice by the contractual partner and shall be payable within 14 days, unless otherwise agreed by the parties.

5.3 If a consumer is involved in the transaction, the interest on overdue payments shall amount to five percentage points above the base interest rate applicable at the time. Otherwise, the overdue interest shall amount to eight percentage points above the respective applicable base interest rate. We explicitly reserve the right to claim further compensation for damages caused by default.

5.4 The contracting partner shall be entitled to set off claims against those of iRFP only if its counter-claims have been legally established, are undisputed, or have been acknowledged by iRFP. Except within the range of § 354 a of the German Commercial Code (HGB), the contracting partner may assign claims arising from this contract to third parties only with the prior written consent of iRFP. The contractual partner shall have a right of withholding or the defense of non-performance of the contract only within this contractual relationship.

5.5 The rates are always stated in Euro (€) and are net prices plus the applicable legal value added tax.

5.6 All predictable additional expenses arising for iRFP and the contractual partner in the course of the delivery of services (e.g. fees, charges, etc.) shall be part of the agreed delivery rate and shall be paid independently and on the contractual partner's own responsibility. All other, unpredictable expenses of iRFP will be settled for proof.

5.7 Any bank charges and costs, especially in case of foreign bank transfers, shall be covered by the contracting party liable to pay. These costs will not be shown on invoices.

6. Delivery Deadline, Delays

6.1 Information on delivery and performance dates shall not be binding unless iRFP has designated them so in writing. The iRFP shall be entitled to provide partial services insofar as the delivered parts can be reasonably used by the contractual partner.

6.2 Delivery and performance periods shall be extended by the period in which the contracting party is in delay of payment under the contract. Deadlines shall also be deemed to be extended by the period in which the contractual partner fails to provide cooperation in accordance with the contract. These include, but are not limited to, the provision of information and documents, the creation of access, and the provision of hardware. If iRFP is prevented from providing their services for reasons for which they are not responsible (force majeure, labor dispute), the deadlines shall also be extended by the period during which the impediment to performance for which it is not responsible existed.

6.3 If the contracting parties subsequently agree on other or additional services that affect agreed deadlines, these deadlines shall be extended by a reasonable period of time.

6.4 Reminders and setting of deadlines by the contractual partner must appear in writing in order to be effective. A grace period must be reasonable. A period of less than two weeks shall only be reasonable in case of special urgency.

7. Contract Commitment and Cancellation

7.1 Any cancellation of further service exchange (e.g. in case of withdrawal, reduction, cancellation for cause, compensation for damages instead of service) must, unless otherwise provided in this clause, always be threatened by stating the reason and setting a reasonable deadline for remedy (usually at least two weeks) and can only be declared within two weeks after expiry of the deadline. In the cases regulated by law (e.g. Section 323 (2) of the German Civil Code (BGB)), the setting of a deadline may

be unnecessary. Anyone who is entirely or predominantly responsible for the disruption cannot demand reversal.

7.2 For validation, all declarations in this context must be issued in writing.

Reservation of Ownership and License Rights

8.1 The delivery of contractual software, all other services and work results shall be subject to reservation of ownership. The parties agree the contractual partner to acquire full ownership of the delivered services in kind, other services and work results only after the contractual partner has settled all claims relating to the respective delivery.

8.2 The right to use the contractual software shall not be given until full payment of the compensation has been made (license reservation). The iRFP may terminate the granted rights of use for good cause in compliance with the form and deadline requirements of § 7. Considerable cause exists in particular if iRFP cannot reasonably be expected to continue to comply with the contract, in particular if the contractual partner fails to pay the compensation.

8.3 iRFP is entitled to secure the reservation of ownership by means of security measures, such as withholding passwords or blocking certain content.

9. Warranty

9.1 iRFP warrants the agreed quality and ensures the contractual partner to use the contractual software without violating the rights of third parties. If the parties have not agreed on the quality, iRFP warrants that the contractual software is suitable for normal use. A functional limitation of the contractual software resulting from hardware defects, environmental conditions, incorrect operation etc. is not be considered a defect. An insignificant reduction in quality shall not be taken into account.

9.2 If the contractual partner is an entrepreneur, it shall be obligated to have all items delivered by iRFP expertly inspected without delay, at the latest after 2 working days from delivery or from the time they are made available, in accordance with the regulations under commercial law (§ 377 of the German Commercial Code [HGB]) and to give written notice of any defects detected, including a precise description of the defect. This shall also apply to programs provided to the contractual partner within the terms of warranty and within context of a maintenance contract. If they do not comply with this obligation, a warranty for these defects is excluded, even if such a defect becomes apparent later.

9.3 The contractual partner shall take reasonable precautions in the event of the program not working properly entirely or in sections (e.g. by means of data backup, fault diagnosis, regular testing of results, emergency planning). It is their responsibility to ensure the functionality of the program's working environment.

9.4 The contractual partner shall support iRFP in analyzing errors and eliminating errors and shall grant the time and opportunity required for the elimination of errors. In the event of a material defect, iRFP shall initially be entitled to provide supplementary performance. If the contractual partner is an entrepreneur, iRFP may decide at its own discretion whether subsequent performance shall take the form of elimination of the defect ("rectification") or replacement delivery. Within the context of replacement delivery, the contractual partner shall, if necessary, adopt a new version of the software, unless this leads to unreasonable impairments. In the event of defects in title, iRFP shall, at its own discretion, provide the contractual partner with a legally flawless opportunity to use the contractual software or modify it in a way it no longer violates the rights of third parties.

9.5 iRFP shall be entitled to provide the warranty on premises of the contractual partner. iRFP shall also fulfill their obligation to repair by making updates available for download on their homepage and by offering the contractual partner phone support to solve any installation problems that may arise.

9.6 At least three attempts to correct a defect are to be allowed. In the event of the repair or replacement failing three times, the contractual partner shall be entitled to reduce the purchase rate or to withdraw from the contract at its discretion. A right of withdrawal does not exist in the case of insignifi-

cant defects. If the contractual partner claims damages or compensation for wasted expenses, iRFP shall be liable in accordance with § 10.

9.7 If the contractual partner is a private user, the legal warranty regulations shall apply without restriction.

9.8 If a maintenance contract exists between the parties, the period for correcting defects shall be based on the terms of this maintenance contract.

10. Liability

10.1 iRFP shall not be liable for damages caused by FBS or the use of FBS, in particular for damages such as business interruptions, lost profits, loss of data or information, or damages due to operating errors or errors in the accompanying hardware, unless caused by intent or gross negligence. iRFP shall be liable for damages caused by intent or gross negligence up to a maximum amount equal to the total price agreed upon in the individual contract.

10.2 In the event of a minor violation of an essential contractual obligation (cardinal obligation), the liability of iRFP shall be limited in amount to the damage foreseeable and typical according to the nature of the transaction in question. Essential contractual obligations are those whose fulfillment enables the correct execution of the contract in the first place and on whose compliance the contractual partner may regularly rely.

10.3 There will be no further liability on the behalf of iRFP.

10.4 The above limitation of liability shall also apply to the personal liability of iRFP's employees, representatives and organs.

10.5 The contractual software is delivered in a tested condition. Should program errors still occur, iRFP undertakes to correct them within the framework of a warranty period of twelve months from delivery. Further legal regulations remain unaffected. If a serious program error is not corrected within a reasonable period of time or if it is avoided in a way that is reasonable for the customer, the user can demand a reduction of the rate or replacement at the expense of iRFP. For already used license time an amount of 1% of the license rate is retained per month.

10.6 Any infrastructure and vehicle data included in the extent of delivery, only represent examples and possible applications; corresponding matches are coincidental and do not allow any conclusions to be drawn with regard to planning and operation.

11. Statute of Limitation

11.1 If the contractual partner is an entrepreneur, the limitation periods shall apply as listed below

a) claims for repayment of the purchase price arising from withdrawal or reduction, one year from delivery of the Software, but for properly notified defects not less than three months from submission of the effective declaration of withdrawal or reduction;

b) in case of other claims arising from material defects, one year;

c) in case of claims based on defects of title, two years, if the defect of title does not lie in a right of a third party on the basis of which the third party can demand the return of the contractual software, other objects provided or work results or demand that they refrain from using them;

d) in the case of claims for damages or compensation for futile expenses not based on material defects or defects of title, two years; the period shall commence at the time at which the customer became aware of the circumstances giving rise to the claim or should have become aware without gross negligence.

e) the limitation period shall occur at the latest upon expiry of the maximum periods defined in § 199 of the German Civil Code (BGB).

11.2 In the event of claims for damages and compensation for expenses arising from malicious deception and in the cases specified in § 10 para. 1, the statutory limitation periods shall always apply in deviation from para. 1. The same shall apply if the contractual partner is a consumer.

11.3 In the event of transfer to a data carrier, the limitation period shall commence upon delivery of the contractual software; in the event of transfer by means of download from the Internet, the limitation period shall commence upon notification and activation of the access data for the download area. In all other respects, the legal provisions shall apply.

12. Acceptance of Service

12.1 Insofar as the services of iRFP are subject to acceptance, they shall be accepted by the contractual partner. In the course of acceptance, the services shall be jointly inspected by both contracting parties for conformity with the contract. A service is in conformity with the contract, if it is free of material defects and defects of title.

12.2 Acceptance is to be declared in writing.

12.3 The contractual partner shall be entitled to refuse acceptance in the event of critical and/or material defects in performance. Acceptance may not be refused due to defects that only insignificantly impair the contractual use of the service. iRFP shall correct the critical and/or material defects in performance occurred within a reasonable period of time and resubmit the performance for acceptance.

12.3 iRFP is also entitled to report and hand over partial services as ready for acceptance. If all partial services subject to acceptance have been accepted, the entire service shall be considered accepted.

13. Confidentiality and Data Protection

13.1 The contracting parties agree to confidentially treat all items (e.g. software, documents, information) they receive or become aware of from the other contracting party before or during the performance of the contract and which are legally protected or contain business or trade secrets or are designated as confidential, also beyond the end of the contract. Each party shall pass on this obligation to the persons and subcontractors involved in the tasks and shall also oblige them to maintain confidentiality.

13.2 The following confidential information shall be excluded from this obligation:

a) information, which was proven to be already known to the recipient at the time of contract conclusion or which becomes known thereafter from a third party, without violating a confidentiality agreement, legal regulations or official orders;

b) information, which are public knowledge at the time of conclusion of contract or are made public thereafter, insofar as this is not based on a violation of this contract;

c) information, which must be disclosed due to legal obligations or by order of a court or authority. To the permissible and possible extent, the recipient obligated to disclose, shall inform the other party in advance and give them the opportunity to oppose the disclosure, unless they are public knowledge without a violation of the obligation to maintain secrecy. The contracting parties shall store and secure these items in such a way that access by third parties is excluded.

13.3 iRFP shall process the data of the contractual partner required for the transaction in compliance with the regulations of data protection law. Further details are provided in the iRFP's privacy policy.

14. Maintenance Contract

14.1 In addition to providing the contractual software, iRFP declares their willingness and interest to improve and further develop the contractual software and associated components and to be available to the contractual partner to a reasonable extent when using the programs, even beyond the legal warranty. For this purpose, iRFP shall allow the contractual partner to conclude a separate agreement for maintenance, care and updating of the software provided.

14.2 The payment for services provided in connection with the maintenance agreement shall be based on the payment for the issued software license without any special discounts offered. The calculation of payment shall be made regularly in the middle of the ordered maintenance period, unless otherwise mutually agreed before the beginning of the maintenance year.

14.3 Unless otherwise agreed by the parties, the maintenance agreement may only be concluded up to a maximum of two months after delivery of the software. The start of maintenance shall always be the start of delivery. There is no claim to the conclusion of a maintenance contract.

15. Maintenance Contract, Engineering Services and Trainings

15.1 The contractual partner and iRFP shall perform the services to be provided in accordance with the principles of correct professional practice and with the greatest possible care by qualified and reliable personnel within the agreed period of time. It is warranted that the services provided will comply with the generally applicable engineering and scientific standards in effect at the time. iRFP further warrants the services owed by it to be free from third party rights, in particular patent rights and copyrights.

12.2 As a matter of principle, iRFP shall provide their services themselves or with the help of suitable and qualified employees. iRFP and their employees shall not be subject to any instructions in the performance of the individual activities owed.

15.3 Any partial or complete transfer of services of the contractual partner to third parties shall require written consent. This requirement cannot be cancelled verbally or tacitly. Later written confirmation of verbal agreements by the contracting partner alone shall not be sufficient. Silence on the part of iRFP shall not be considered approval.

15.4 Services provided or ordered in advance for training courses (preparatory work, room or hotel reservations) shall be invoiced to the contracting partner at original cost price. The success of the training depends on the general conditions (e.g. prior knowledge of the participants); iRFP shall not be responsible for.

15.5 The liability for all services mentioned is subject to the correctness and completeness of the initial data provided by the client or his assistants (e.g. regarding technology, infrastructure or vehicles).

16. Final Clauses

16.1 If one or more regulations of these general contractual and general conditions (GCC) are or become invalid, or if these GCC contain a loophole, this shall not affect the validity of the rest of the GCC. In the event that one of the regulations is or becomes invalid and/or ineffective, or in the event of a loophole, the parties shall agree on a regulation that comes as close as possible to the economic intentions of the contracting parties, taking legal regulations into account.

16.2 The contract software may be subject to (re-)export restrictions, e.g. of the United States of America or the European Union. The contractual partner shall observe these restrictions in the event of a re-sale or other export.

16.3 In the case of shipment of licenses of the contractual software, license plugs or work results, the transfer of risk to the contractual partner shall take place upon handover to the first commercial transport company or storage at a mutually agreed location. At request and expense of the contractual

partner, iRFP will instruct special shipping companies, -routes or -methods and takes care of insurance by request of the contractual partner at his expense.

16.4 In addition to these general terms and conditions of contract, the legal regulations of law on sales and contracts for work and services shall apply. For engineering services, the relevant provisions of the HOAI shall apply in addition to these general terms and conditions of contract.

16.5 Individual arrangements in special contracts concluded for a specific type of service delivery (maintenance contracts, contracts for work and services, consulting contracts as well as engineering contracts) shall take effect over the arrangements of these AVRB, provided that they comply with the written form requirement and the respective arrangements contradict the provisions of these AVRB. Otherwise, the AVRB shall apply without restriction.

16.6 The venue for performance of services shall be the location at which the service is to be provided. Otherwise, the venue for performance for all services arising from and in connection with these GTCS shall be the registered office of iRFP.

16.7 Insofar as the requirements according to section 38 of the German Code of Civil Procedure (ZPO) are met, the place of court for all mutual claims arising from the business relationship shall be the registered office of iRFP. The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods. Contracts have to be written in German and, if applicable, in English. However, only the German version shall be used and quoted in legal disputes.