



GENERAL TERMS AND CONDITIONS

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FN 324021 b, Landesgericht Wels

1. General Information

1.1. The Contractor shall provide the Client with information technology services and the operation of hardware and software components.

1.2. These General Terms and Conditions (GTC) shall apply to all current and future services provided by the Contractor to the Client, even if no express reference is made to the GTC in individual cases when the contract is concluded. The Client's terms and conditions shall only apply if they have been recognized by the Contractor in writing.

2. Scope of services

2.1. The exact scope of the Contractor's services shall be contractually agreed with the Client. Unless otherwise agreed, the Contractor shall provide the services during the Contractor's normal business hours.

2.2. The basis of the equipment and technology used for the provision of services by the Contractor shall be the qualitative and quantitative service requirements of the Client, as determined on the basis of the information provided by the Client. If new requirements of the Client necessitate a change in the services or the technology used, the Contractor shall submit a corresponding offer at the request of the Client.

2.3. The Contractor shall be entitled to change the equipment used to provide the services at its own discretion if no impairment of the services is to be expected.

2.4. Services provided by the Contractor which are used by the Client beyond the agreed scope of services shall be remunerated by the Client according to the actual personnel and material costs at the rates applicable at the Contractor. This includes, in particular, services outside the Contractor's normal business hours, the analysis and elimination of faults and errors caused by improper handling or operation by the Client or other circumstances for which the Contractor is not responsible. Training services are also generally not included in the services and require a separate agreement.

2.5. If the Contractor arranges third-party services at the request of the Client, these contracts shall be concluded exclusively between the Client and the third party in accordance with the respective terms and conditions of the third party. The Contractor shall only be responsible for the services it provides itself.

2.6. We expressly point out that a barrier-free design within the meaning of the "Federal Act on Equal Opportunities for Persons with Disabilities (Federal Disability Equality Act - BGStG)" is not included in the offer, unless this has been requested separately/individually by the client. If the barrier-free design has not been agreed, the client shall be responsible for checking the admissibility of the service with regard to the Federal Disability Equality Act.

3. Obligations of the client to cooperate and provide materials

3.1. The Client undertakes to support all measures that are necessary for the provision of the services by the Contractor. Furthermore, the Client undertakes to take all measures that are necessary for the fulfillment of the contract and that are not included in the Contractor's scope of services.

3.2. If the services are provided on site at the client's premises, the client shall provide the network components, connections, supply current including peak voltage equalization, emergency power supplies, storage space for systems, workstations and infrastructure to the extent and quality required (e.g. air conditioning) for the provision of the services by the contractor free of charge. In any case, the client shall be responsible for compliance with the prerequisites for the operation of the hardware required by the respective manufacturer. The Client shall also be responsible for room and building security, including protection against water, fire and access by unauthorized persons. The Client shall be responsible for special security precautions (e.g. security cells) on its premises. The Client shall not be entitled to issue instructions of any kind to the Contractor's employees and shall submit all requests regarding the provision of services exclusively to the contact person designated by the Contractor.

3.3. The Client shall provide all information, data and documents required by the Contractor for the execution of the order in the form requested by the Contractor on the agreed dates and at its own expense and shall support the Contractor on request in problem analysis and troubleshooting, the coordination of processing orders and the coordination of services. Changes in the Client's work processes that may cause changes in the services to be provided by the Contractor for the Client shall require prior coordination with the Contractor with regard to their technical and commercial effects.

3.4. If this is not expressly included in the Contractor's scope of services, the Client shall provide a network connection at its own risk and expense.

3.5. The Client shall be obliged to treat the passwords and log-ins required to use the Contractor's services confidentially.

3.6. The Client shall also store the data and information provided to the Contractor so that it can be reconstructed at any time in the event of loss or damage.

3.7. The Principal shall perform all duties to cooperate incumbent upon it in such a timely manner that the Contractor is not hindered in the provision of the services. The Principal shall ensure that the Contractor and/or the third parties commissioned by the Contractor have the necessary access to the Principal's premises for the provision of the services. The Principal shall be responsible for ensuring that the employees of its affiliated companies involved in the performance of the contract or third parties commissioned by it cooperate accordingly in the performance of the contract.

3.8. If the Client does not fulfill its obligations to cooperate on the agreed dates or to the agreed extent, the services provided by the Contractor shall nevertheless be deemed to have been provided in accordance with the contract despite possible restrictions. Schedules for the services to be provided by the Contractor shall be postponed to a reasonable extent. The Client shall remunerate the additional expenses and/or costs incurred by the Contractor as a result thereof separately at the Contractor's applicable rates.

3.9. The Customer shall ensure that its employees and third parties attributable to it handle the equipment and technologies used by the Contractor and any assets provided to it with care; the Customer shall be liable to the Contractor for any damage.

3.10. Unless otherwise agreed, the provision of materials and cooperation by the Client shall be free of charge.

4. Personnel

4.1. If employees of the Client are taken on by the Contractor in accordance with the agreements made between the contracting parties, a separate written agreement must be made.

5. Change Requests

5.1. Both contracting parties may request changes to the scope of services at any time ("Change Request"). However, a requested change must contain a precise description of the change, the reasons for the change, the impact on scheduling and the costs in order to give the addressee of the change request the opportunity to make an appropriate assessment. A change request only becomes binding once it has been legally signed by both contracting parties.

6. Performance disruptions

6.1. The Contractor undertakes to provide the services in accordance with the contract. If the Contractor does not provide the services at the scheduled times or only provides them inadequately, i.e. with significant deviations from the agreed quality standards, the Contractor shall be obliged to begin remedying the defects immediately and to provide its services properly and free of defects within a reasonable period of time by repeating the affected services or carrying out necessary rectification work at its discretion.

6.2. If the defectiveness is based on the provision of materials or cooperation by the Client or on a breach of the Client's obligations pursuant to Section 3.9, any obligation to remedy defects free of charge shall be excluded. In these cases, the services rendered by the Contractor shall nevertheless be deemed to have been rendered in accordance with the

contract despite possible restrictions. At the Client's request, the Contractor shall undertake to remedy the defect at the Client's expense.

6.3. The Client shall support the Contractor in remedying defects and provide all necessary information. The Client shall notify the Contractor immediately in writing or by e-mail of any defects that have occurred. The Client shall bear any additional costs incurred in the rectification of defects due to late notification.

6.4. The provisions of this point shall apply mutatis mutandis to any deliveries of hardware or software products from the Contractor to the Client. The warranty period for such deliveries shall be 6 months from handover. § Section 924 ABGB "Presumption of defectiveness" is excluded by mutual agreement. For any third-party hardware or software products provided to the Client by the Contractor, the respective warranty conditions of the manufacturer of these products shall take precedence over the provisions of this point. Until full payment has been made, the Contractor shall retain title to all hardware and software products supplied by it.

7. Contractual penalty

7.1. The penalties per year are limited to 20% of the total annual fee. The assertion of a claim for damages exceeding this amount is excluded, except in cases of intent or gross negligence.

Should overruns with a penalty effect occur, these must be brought to the Contractor's attention immediately in writing

8. Liability

8.1. The Contractor shall only be liable to the Client for damage for which it is demonstrably responsible in the event of gross negligence. This shall also apply mutatis mutandis to damage attributable to third parties engaged by the Contractor. In the event of personal injury for which the Contractor is responsible, the Contractor shall be liable without limitation.

8.2. Liability for indirect damages - such as loss of profit, costs associated with business interruption, loss of data or third-party claims - is expressly excluded.

8.3. Claims for damages shall become time-barred in accordance with the statutory provisions, but at the latest one year after knowledge of the damage and the damaging party.

8.4. If the Contractor performs the work with the assistance of third parties and warranty and/or liability claims against these third parties arise in this context, the Contractor shall assign these claims to the Client.

9. Remuneration

9.1. The remuneration and conditions to be paid by the client are set out in the contract. The statutory value added tax shall be charged additionally.

9.2. Travel times of the Contractor's employees shall be deemed working time. Travel times shall be remunerated at the agreed hourly rate. The aforementioned rates shall change in accordance with the price escalation clause in Section 9.5. In addition, travel expenses and any accommodation costs shall be reimbursed by the Client according to actual expenditure. Travel and incidental expenses shall be reimbursed upon presentation of receipts (copies).

9.3. The Contractor shall be entitled at any time to make the provision of services dependent on the provision of advance payments or the provision of other securities by the Client in an appropriate amount.

9.4. Unless otherwise contractually agreed, one-off payments shall be invoiced after the provision of the service and ongoing payments shall be invoiced quarterly in advance. Invoices issued by the Contractor, including VAT, shall be payable within 14 days of receipt of the invoice without any deductions and free of charges. For partial invoices, the terms of payment stipulated for the entire order shall apply analogously. A payment shall be deemed to have been made on the day on which the Contractor can dispose of it. If the Client is in arrears with its payments, the Contractor shall be entitled to charge the statutory default interest and all costs necessary for collection. Should the Client's default exceed 14 days, the Contractor shall be entitled to suspend all services. Furthermore, the Contractor shall be entitled to demand immediate payment for all services already rendered, irrespective of any payment deadlines.

9.5. Current remuneration is based on the collective agreement salary of an employee of companies in the field of services in automatic data processing and information technology in the experience level for special activities (ST2).

9.6. The Client shall only be permitted to offset counterclaims that have been recognized by the Contractor or have been legally established. The Client shall not be entitled to a right of retention.

9.7. All tax liabilities arising from the contractual relationship, such as legal transaction fees or withholding taxes, shall be borne by the Client. Should the Contractor be held liable for such charges, the Client shall indemnify and hold the Contractor harmless.

10. Force majeure

10.1. Insofar and as long as obligations cannot be fulfilled on time or properly as a result of force majeure, such as war, terrorism, natural disasters, fire, strike, lockout, embargo, sovereign intervention, failure of the power supply, failure of means of transportation, failure of telecommunications networks or data lines, changes in legislation affecting the services after conclusion of the contract or other non-availability of products, this shall not constitute a breach of contract.

11. Rights of use to software products and documents

11.1. Insofar as the Client is provided with software products by the Contractor or the Client is enabled to use software products within the scope of the services, the Client shall be entitled to the non-exclusive, non-transferable, non-sublicensable right, limited to the term of the contract, to use the software products in unmodified form.

11.2. For third-party software products provided to the Customer by the Contractor, the respective license terms of the manufacturer of these software products shall take precedence over the provisions of this clause.

11.3. Unless a separate agreement is made, no further rights to software products shall be transferred to the Client.

The rights of the Client pursuant to §§ 40(d), 40(e) UrhG shall not be affected by this.

11.4. All documents provided to the Client by the Contractor, in particular the documentation for software products, may not be reproduced or distributed in any way, whether for a fee or free of charge.

12. Term of the contract

12.1. The contract shall enter into force upon signature by both contracting parties and, unless otherwise agreed, shall run for an indefinite period. The contract may be terminated by either contracting party by registered letter subject to a notice period of 6 months, but no earlier than the end of the minimum term agreed in the contract.

12.2. Each contracting party is entitled to terminate the contract prematurely and without notice by registered letter for good cause. Good cause shall be deemed to exist in particular if the other contracting party breaches material obligations under the contract despite a written warning and threat of termination or if bankruptcy or other insolvency proceedings are applied for, opened or rejected against the other contracting party due to lack of assets or if the performance of the other contracting party is hindered or prevented for a period of more than six months as a result of force majeure.

12.3. Furthermore, the Contractor shall be entitled to terminate the contract prematurely for good cause if essential parameters of the provision of services have changed and the Contractor can no longer be reasonably expected to continue the services from an economic point of view for this reason.

12.4. Upon termination of the contract, the Client shall immediately return to the Contractor all documents and documentation provided to it by the Contractor.

12.5. Upon request, the Contractor shall support the Client at the end of the contract in returning the services to the Client or a third party named by the Client at the respective hourly rates applicable at the Contractor.

13. Data protection / confidentiality

13.1. The Contractor shall comply with the provisions of the Data Protection Act, the GDPR and the Telecommunications Act when handling personal data and shall take the technical and organizational measures required for data protection in the Contractor's area of responsibility.

In particular, the Contractor undertakes to ensure that its employees comply with the provisions of Section 6 of the Data Protection Act.

13.2. The data protection declaration within the meaning of Art 13 and 14 GDPR and the processor agreement within the meaning of Art 28 (3) GDPR shall be attached to the order.

14. Confidentiality

14.1. Each contracting party assures the other party that it will treat all trade secrets disclosed to it by the other party in connection with this contract and its performance as such and not make them accessible to third parties, unless they are generally known, or were already known to the recipient beforehand without an obligation of confidentiality, or are communicated or provided to the recipient by a third party without an obligation of confidentiality, or have been demonstrably developed independently by the recipient, or must be disclosed on the basis of a legally binding official or judicial decision.

14.2. The subcontractors associated with the Contractor shall not be deemed third parties insofar as they are subject to a confidentiality obligation corresponding in content to this point.

15. Miscellaneous

15.1. The contracting parties shall name knowledgeable and competent employees in the contract who can make or initiate the necessary decisions.

15.2. During the term of the contract and until the expiry of one year after the end of the contract, the Client shall not entice away employees employed by the Contractor to provide the services, either itself or via third parties. For each case of infringement, the Client undertakes to pay the Contractor a contractual penalty in the amount of twelve times the gross monthly salary that the employee concerned last received from the Contractor, but at least the collective agreement salary of an employee of companies in the field of services in automatic data processing and information technology in the experience level for special activities (ST2).

15.3. Amendments and supplements to the contract must be made in writing. This also applies to the waiver of this formal requirement.

15.4. Should one or more provisions of the contract be or become invalid or unenforceable in whole or in part, this shall not affect the validity of the remaining provisions. The invalid or unenforceable provision shall be replaced by a valid provision that comes as close as possible to the economic purpose of the invalid or unenforceable clause.

15.5. Any disposal of the rights or obligations existing under the contract shall require the prior written consent of the other contracting party. However, the Contractor shall be entitled to transfer the contract to a company affiliated with the Contractor under group law without the consent of the Client.

15.6. Unless otherwise agreed, the statutory provisions applicable between entrepreneurs shall apply exclusively in accordance with Austrian law, even if the order is carried out abroad. Any disputes shall be subject exclusively to the local jurisdiction of the competent court for the Contractor's place of business.

The place of jurisdiction shall be explicitly agreed again in the contractual agreement with the customer explicitly agreed with the customer.

The Association of Management Consultants and Information Technology recommends the following mediation clause as a business-friendly means of dispute resolution

In the event of disputes arising from this contract which cannot be settled amicably the contracting parties mutually agree to call in registered mediators (ZivMediatG) specializing in business mediation from the list of the Ministry of Justice to settle the dispute out of court. If no agreement can be reached on the selection of business mediators or on the content of the mediation, legal action will be initiated at the earliest one month after the failure of the negotiations.

In the event that mediation does not take place or is broken off, Austrian law shall apply in any legal proceedings that are initiated.

All necessary expenses incurred as a result of prior mediation, in particular those for a legal advisor, can be claimed as "pre-litigation costs" in court or arbitration proceedings as agreed.