

General Terms & Conditions for Information Technology (IT) Services

1 Scope and validity

1.1 These General Terms & Conditions regulate the conclusion, content and performance of contracts for IT services such as the deployment of information technology (IT) personnel, consultancy, support and training.

1.2 These Terms & Conditions shall be deemed accepted upon the Supplier submitting an offer.

2 Offers

2.1 The offer and any demonstrations shall be made free of charge, unless it is otherwise stated in the request for offer.

2.2 The Supplier shall specifically point out all differences between the offer and the details of the Customer's request for offer.

2.3 The offer shall be binding for the period specified by the Customer. If no period is stipulated in the offer nor in the request for offer, the Supplier's offer shall be considered binding for 2 months from the date it was made.

2.4 Either party may withdraw from negotiations prior to the signing of the contract without financial consequences.

3 Performance

3.1 The Supplier shall regularly inform the Customer on the progress of work and shall immediately notify him of any circumstances which might endanger the successful performance of the contract.

3.2 The Customer shall grant the Supplier the necessary access to his premises. He shall also provide the relevant documentation and suitable workspace as required. If necessary, further obligations on the part of the Customer to cooperate shall be stipulated in the contract.

4 Deployment of staff

4.1 The Supplier shall ensure that all his staff comply with the Customer's company rules and regulations, particularly his safety standards, working hours and house rules.

4.2 The Supplier shall deploy only carefully selected and well qualified staff. At the Customer's request he shall re-

place any employee who does not have the required skills or expertise or who impedes the performance of the contract in any other way.

4.3 The parties shall notify each other in writing of the names and functions of staff with project responsibility. They shall deploy these staff as specified in the project organisation.

5 Conditions for on-site staff

5.1 Where the Supplier deploys staff to work on the Customer's premises, the Customer shall be responsible for ensuring that the tasks assigned are appropriate and correct. The Customer is responsible for monitoring and checking the performance of services.

5.2 If the Supplier's employees work on the Customer's premises on a full-time basis, they shall only be allowed to engage in other gainful activities exceeding 10 hours per week over a lengthy period, with the Customer's express permission. Any foreseeable absences shall be notified to the Customer immediately.

6 Remuneration

6.1 The Supplier shall provide his services at fixed prices or at cost, with a limit applied to the amount of remuneration (cost ceiling). The Supplier shall specify the cost types and rates in his offer.

6.2 The remuneration shall cover all services required for the due fulfilment of the contract. In particular, it includes social security contributions and other insurance contributions to cover sickness, disability and death, as well as any public duties. Expenses shall also be included.

6.3 Payments shall be made in accordance with the payment schedule. When a payment is due, the Supplier shall submit a request for payment to the Customer. The Customer shall settle within 30 days after receipt of the request for payment.

6.4 In the case where partial payments are agreed upon (payments in advance and on account), the Supplier shall provide some form of security if the Customer so requests.

6.5 The remuneration shall only be adjusted for general price increases where this is provided for, and to the extent specified in the contract.

7 Intellectual property rights

7.1 The Customer shall retain all intellectual property rights arising from the contract performance (the provision of services).

7.2 The Supplier shall contest at his own cost and risk any third-party claims arising from infringement of intellectual property rights. The Customer shall advise the Supplier of such claims without delay and in writing. He shall grant the Supplier sole control over any court proceedings and sole responsibility for taking measures for settlement in or out of court. Under these provisions, the Supplier shall hold the Customer harmless of all costs and dangers awarded against the Customer.

8 Confidentiality

8.1 Both parties shall treat in strict confidence all matters which are not publicly known or generally accessible. If there is any doubt, this confidentiality clause shall nevertheless be observed. The parties are obliged to observe this confidentiality clause both before the contract is signed and after the contractual relationship ends. This provision shall not affect either party's legal obligation to disclose information.

8.2 Any advertisement or publication about services to be supplied for a specific project requires the written permission of the other party.

8.3 If either party violates the above confidentiality obligations, he shall be liable to pay a contract penalty, unless he can prove that no fault is attributable to him. For each infringement this penalty shall amount to 10% of the total remuneration, but not more than CHF 50,000 per infringement. Paying the contract penalty shall not release the party from its obligation to observe confidentiality. The penalty shall count towards any compensation payable.

9 Default

9.1 If the parties have, in the written contract, agreed upon an exact deadline for performance, the party which does not meet the deadline so fixed shall be in default immediately upon the expiration of such deadline. As to due dates not agreed upon as fixed, a party shall be in default only after being reminded thereof and after expiration of a reasonable time extension to be granted by the other party.

9.2 If the Supplier is in default he shall be liable to pay a contract penalty, unless he can prove that no fault is attributable to him. This penalty shall be one tenth of 1‰ of the total remuneration for each day of delay, with a maximum of 10%. The contract penalty shall be payable even if the services are accepted without reservation. Paying the contract penalty shall not release the Supplier from his other contractual obligations. However, the penalty shall count towards any compensation payable.

10 Warranty

10.1 The Supplier warrants that his services are performed faithfully and with due diligence.

10.2 Where staff are assigned to work on the Customer's premises, the Supplier shall warrant careful and faithful selection of employees with the appropriate professional and personal qualifications and their careful and faithful instruction.

11 Liability

11.1 Each party shall be liable for any damages arising from failure to meet deadlines or due dates (default), unless he proves that no fault is attributable to him. The party shall be liable for any fault, i.e. intent and all degrees of negligence. Liability shall not exceed the amount of damages which have actually arisen. The liability for default shall be limited to 20% of the total remuneration (fixed price or cost ceiling) per contract; should the remuneration amount to less than CHF 500,000, liability shall not be reduced to less than CHF 100,000. Further statutory rights from waiving future performance or from holding to the contract shall be reserved. In any case, claims for the loss of anticipated profit are excluded from liability.

11.2 If any damage arises as a result of unfaithful or careless performance of the services or of unfaithful or careless selection and instruction of personnel deployed, the Supplier shall pay compensation unless he proves that no fault is attributable to him. The Supplier shall be liable for any fault, i.e. intent and all degrees of negligence. Liability shall not exceed the amount of damages which have actually arisen. Liability for personal injury shall be unlimited. Liability for damage to property shall be limited to 30% of the total remuneration (fixed price or cost ceiling) per contract; should the remuneration amount to less than CHF 1 million, liability shall not be reduced to less than CHF 300,000. Liability for purely pecuniary damage shall be limited to 10% of the total remuneration (fixed price or cost ceiling) per contract; should the remuneration amount to less than CHF 500,000, liability shall not be reduced to less than CHF 50,000. In any case, claims for the loss of anticipated profit are excluded from liability.

11.3 Each party shall be liable for other breaches of contract (e.g. breach of confidentiality, violation of the obligation to inform the other party, the use of auxiliary persons without permission of the Customer, violation of general obligations of loyalty and due diligence), unless the party proves that no fault is attributable to him. The parties shall be liable for any fault. Liability shall not exceed the amount of damages which have actually arisen. Liability shall be limited to 10% of the remuneration per contract (fixed price or cost ceiling); should the remuneration amount to less than CHF 500,000, liability shall not be reduced to less than CHF 50,000. The compensation for damages caused by a violation of intellectual property rights shall not be limited. In any case, claims for the loss of anticipated profit are excluded from liability.

11.4 Both parties shall be liable for the acts of their auxiliary persons (e.g. employees, external labour) as if they had carried out such acts personally.

12 Termination

12.1 Where the Supplier's employees are deployed on the Customer's premises, the Customer shall be free to terminate the contract at any time, subject to 30 days' notice. The Supplier shall cease work immediately if the Customer so requests.

12.2 In all other cases, either party shall be free to terminate the contract at any time by giving 30 days' notice.

12.3 In the event of serious breach of contract, the other party may terminate the contract immediately without notice. This shall not prejudice the parties' right to claim damages.

12.4 In such cases the amount of remuneration shall be calculated on the basis of services already performed.

13 Assignment and pledging of receivables

Receivables due to the Supplier may not be assigned or pledged to third parties not affiliated with the Supplier without the Customer's written permission.

14 Observation of health and safety standards, conditions of employment, equal treatment of the sexes in relation to salary

14.1 Where contractual duties are performed in Switzerland, the Supplier shall grant to his employees health and safety standards as well as conditions of employment in force or usually practised at the place of performance. He shall ensure that women and men are treated equally with respect to their salaries. Conditions of employment shall be those contained in the respective collective employment contracts or in standard employment contracts, or, in the absence of these, the employment conditions which are usually granted at the place of performance or in a particular profession. The Supplier shall contractually impose these duties upon his subcontractors.

14.2 Should the Supplier violate these obligations, he shall be liable to pay a contract penalty unless he proves that no fault is attributable to him. The penalty shall amount per case to 10% of the total remuneration, yet to no more than CHF 50,000 per case.

15 Applicable law

The contractual relationship between the two parties shall be governed by Swiss law.

*Original: German
In case of disputes the German text shall prevail.*