



## TERMS OF SERVICE

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We are BIMEXPERTS GmbH, doing business as BIMEXPERTS ("BIMEXPERTS" "Company," "we," "us," or "our"), a company registered in Laxenburger Straße 151A / 2.OG, 1100 Vienna, Austria. Our VAT number is ATU76971378.

### AGREEMENT TO OUR TERMS OF SERVICE

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THE SERVICES. IF YOU DO NOT AGREE TO THIS AGREEMENT, YOU ARE NOT AUTHORIZED TO USE THE SERVICES AND YOU MUST PROMPTLY CEASE USING THEM.

OUR SERVICES ARE INTENDED FOR USE BY BUSINESS, COMMERCIAL ENTITIES AND NATURAL PERSONS. YOU ARE NOT AUTHORIZED TO USE OUR SERVICES FOR PERSONAL OR HOUSEHOLD PURPOSES OR FOR ANY OTHER PURPOSE UNRELATED TO YOUR TRADE, BUSINESS OR PROFESSION. ACCORDINGLY, YOU WILL NOT BE ABLE TO RELY ON ANY APPLICABLE CONSUMER LAW OR BE ABLE TO INVOKE ANY CONSUMER RIGHTS.

These Terms of Service constitute a legally binding agreement made between you on behalf of an entity ("you"), and us, and concerning your access to and use of the Services. You agree that by clicking "I Agree" or by accessing the Services, you have read, understood, and agreed to be bound by all of these Terms of Service.

We reserve the right, in our sole discretion, to make changes or modifications to these Terms of Service at any time and for any reason

We will alert you about any changes by updating the "Last updated" date of these Terms of Service, and you waive any right to receive specific notice of each such change.

Any new features or tools that are added to the current Services shall also be subject to the Terms of Service. It is your responsibility to periodically review these Terms of Service to stay informed of updates.

You will be subject to and will be deemed to have been made aware of and to have accepted, the changes in any revised Terms of Service by your continued use of the Services after the date such revised Terms of Service are posted.

The information provided on the website and/or Services is not intended for distribution to or use by any person or entity in any jurisdiction or country where such distribution or use would be contrary to law or regulation or which would subject us to any registration requirement within such jurisdiction or country.

Accordingly, those persons who choose to access the website and/or Services from other locations do so on their own initiative and are solely responsible for compliance with local laws, if and to the extent local laws are applicable.

#### I. Scope and general information:

1. These General terms and conditions (hereinafter referred to as GTC) are designed for legal transactions between companies in the scope of services, personnel and project support, engineering/construction/modeling/BIM. If, in exceptional cases, they are also used as a basis for legal transactions with consumers within the meaning of the Consumer Protection Act, they apply in accordance with the respective special provisions.

2. The application of these GTC is expressly agreed for all legal transactions between the Client and the Contractor, such as the first legal transaction and for all additional and follow-up orders as well as further transactions. The version valid at the time the contract is concluded is relevant

3. Purchasing or other terms and conditions of the Client shall not apply and are hereby expressly rejected. The Contractor expressly declares that he intends to contract only on the basis of his terms and conditions. If, as an exception, the application of the Client's General Terms and Conditions is agreed in writing, their provisions shall only apply to the extent that they do not conflict with these General Terms and Conditions. Non-conflicting provisions in the GTC remain in force side by side.

4. Changes and additions to the contract or to these GTC must be made in writing in order to be legally valid. This requirement to be in writing can also only be waived in writing. It is stated that there are no ancillary agreements.

5. The parties to the contract agree on the application of Austrian law. The application of the UN Convention on Contracts for the International Sale of Goods is excluded. If the validity of Austrian standards has been agreed, these shall only apply insofar as they do not contradict these Terms and Conditions and were handed over to the Client in the latest version when the order was placed.

6. The Contractor draws attention to the fact that these GTC are available on the Internet at <https://www.rtech.at/agb> and [www.bimexperts.com/agb](http://www.bimexperts.com/agb). These GTC can be accessed and printed at any time via the website. At the request of the Employer, the Contractor shall also provide the Employer with the GTC in printed form.

7. The Contractor reserves the right to transfer all rights and obligations under this contract and their claims to a third party at any time by giving written notice to the Client. The Client hereby agrees to the entry of a third party into this contractual relationship if the third party declares in writing with the notification that it assumes all rights and obligations under this contract. The transferee may request that the contractual relationship be executed retroactively in his name. The new contractual partners must accept the performance services rendered by both parties to the contract against them.

#### II. Cost Estimates:

8. Cost estimates are only binding if they are prepared in writing and expressly designated as such; the preparation of a cost estimate does not oblige the Contractor to accept an order.

9. Cost estimates of the Contractor are non-binding; there is no guarantee for the correctness and completeness.

10. Cost estimates are subject to a fee with regard to the work, material and travel expenses associated with the preparation. When an order is placed, the costs paid for the quotation will be credited as payment.

#### III. Conclusion of Contract:

11. Offers from the Contractor are non-binding and will only be made in writing. Unless otherwise agreed, the acceptance of an offer prepared by the Contractor is only possible with regard to the entire offer.

12. Unless the contract is concluded by the signing of a document by both parties, shall accept offers or orders from the Client by written order confirmation, by providing the service or by delivering the object of the service. The Contractor has the option of accepting the Client's contract offer within two weeks.

13. As long as the Client has not submitted a written contractual declaration, the Contractor is entitled, but not obliged, to commence performance.

14. If the written order confirmation contains changes to the order (supplementary order confirmation), these shall be deemed to have been approved by the client, unless the client objects immediately.

15. The Contractor is entitled to commission subcontractors for the processing of the order at any time without notice.

#### IV. The scope of services:

16. The nature and scope of the agreed-upon service are determined by the order, the order confirmation, and these general terms and conditions.

17. The scope of services exclusively involves the creation of technical drawings, plans, sketches, models, lists, or similar documents, including in electronic form (BIM, CAD, 3D model, ...) on the basis of complete predefined information (instructions from the client) or planning documents (plans, data sheets, floor plans and sketches) for a project to be carried out (subject of planning) and the associated auxiliary and preparatory work.

18. The scope of services must be provided according to the general state of the art. The scope of services is exclusively designed for knowledgeable recipients.

19. The contractor does not have to carry out planning work or check the client's information or planning documents for completeness, correctness, consistency, plausibility or similar. There is no obligation on the part of the Contractor to check and warn with regard to these documents and instructions. The Client acknowledges and agrees that such activities are also not permitted due to the scope of the business license.

20. Consultations or similar services and the representation of the client before authorities regarding the subject matter of the planning are not included in the subject matter of the service.

21. By handing over the planning documents and/or disclosing the information, the client guarantees that they are complete, correct and error-free.

22. Corrections, additions or explanations to the planning documents or the information shall only be taken into account if these are made sufficiently before the Contractor begins to provide the service. In the event of delay, the Contractor shall be entitled to appropriate remuneration for all frustrated services - such as auxiliary and preparatory work, work in progress (drawing services) - or any changes or other additional services resulting therefrom. This is independent of any flat rate price.

23. In cases of uncertainties, ambiguities, lack of clarity, areas open to interpretation, or similar issues that reasonably extend the deadline for performance, the client is required to provide the details requested by the contractor and contribute to clarification or resolution.

#### V. Performance and scope of services:

24. The Contractor is only obliged to perform the service once all technical details have been clarified and the Client has created any technical and legal requirements for execution. The performance period begins upon fulfilment of these condition.

25. Services which are not expressly included in the offer or in other contractual documents signed by the Contractor, or which are transmitted too late or subsequently, are not owed.

26. Revisions are all correction rounds of the plans we create and, unless otherwise agreed, constitute additional compensable services. Changes to the contract plans will be charged separately.

Announcement of changes or optimizations free of charge, as far as possible before the start of the work.

27. The number and scope of the plans contractually owed by us are determined by the plan list and, secondarily, by the contract plans known at the time of the offer. Should plans not be listed in the plan list, they will also not be created and must be additionally commissioned. This also applies to all additional plans/details such as details, sections, wall sections, tile detail plans, installation details, etc.

28. The calculation is based on an overall assignment of services and on continuous and uninterrupted processing.

#### VI. Performance deadlines and dates:

29. Performance dates and deadlines are only binding if they are expressly agreed in writing as a FIXED DATE. Otherwise, the Contractor must provide the services within a reasonable period of time.

30. If the commencement of the performance of the work or the execution itself is delayed and the delay was not caused by circumstances attributable to the Contractor, agreed performance deadlines will be appropriately extended or agreed completion dates postponed accordingly. The same applies to modifications or additions to the originally agreed services.

31. The additional costs incurred as a result of delays shall be borne by the Client if the circumstances causing the delays are attributable to the Client.

32. If, except in the case of a justified withdrawal from the contract by the Client, the execution of the commissioned services is omitted in whole or in part at the request of the Client, the Contractor shall be compensated for all disadvantages incurred by him as a result, including the loss of profit. Claims according to § 1168 ABGB are not affected by this.

#### VII. Remuneration/Prices:

33. If the Contractor is commissioned to provide services without a prior offer, the Contractor may claim a reasonable fee. If, during the execution of the order, it turns out that services must also be carried out that were not expressly included in the order, the Client shall commission the Contractor to provide these services as early as now. The Contractor is entitled to demand an appropriate fee for this.

34. In order to be effective, flat-rate price/fee agreements must be expressly designated as such and must be in writing. As a result, the services are by no means a lump sum (spurious flat rate). Changes to the content of the service have an impact on the package price.

35. All prices and fees are subject to the applicable statutory value added tax.

36. The Contractor may charge a separate fee for any transmission and reproduction costs. The Client hereby authorises the transport or dispatch of the services by means of common means of transport (post office, train) as well as by a transport company. The risk is transferred to the customer when the vehicle is handed over to the carrier.

37. The Contractor shall be entitled to invoice a down payment in the amount of one third of the agreed fee after the order has been placed and to invoice divisible services separately. Otherwise, billing will take place after the initial plan has been submitted. Directing hours are billed monthly. Any additional costs will be charged separately. The payment term is 14 days net without deduction. The decisive factor is the receipt by the contractor.

38. Payments by the client must be free of charge and deductions.

39. In the event of default of payment, the Contractor shall reimburse the Contractor for the appropriate and necessary costs incurred as a result of the delay in payment, such as expenses for reminders, collection attempts, storage costs and any judicial or extrajudicial lawyers' fees. Interest on arrears is 12% per annum.

40. Offsetting by the Client with counterclaims or with alleged price reduction claims is only permissible if the Client's claim has been legally established or has been expressly acknowledged by the Contractor in writing.

41. If the Client is in default with a payment obligation towards the Contractor arising from the contractual relationship or any other payment obligation, the Contractor is entitled, without prejudice to other rights, to suspend its obligation to perform until payment has been made by the Client and/or to make use of an appropriate extension of the delivery period, to make all outstanding claims from all contractual relationships due and to pick up any delivered items again, without this relieving the client of his obligation to perform. A withdrawal from the contract can only be seen as a result of these actions if this has been expressly declared by the Contractor.

42. The agreed fee may be a lump sum. The flat-rate fee is accompanied by an inventory of services and estimated expenditure prepared jointly by both parties (advance planning according to the calculation basis in the offer; plan list, deliverables, contract parameters, deadlines, agreed and coordinated plans, etc.) to the end. The Client warrants that this inventory is correct and complete and is based on correct and complete information provided by the Client.

43. The basis of an offered flat-rate fee is the client's final invoice and the billed total production costs of building services including all LV items or supplements that relate to the entire construction project (construction site). Proof by the Client and the right for the Contractor to inspect the accounting and accounting documents are thus granted at any time without any difficulty or request.

44. Travel times are considered working time and are subject to an amount of € 50,--excl. VAT. per hour or part thereof. The amount offered is exclusive of triggering, accommodation costs, plot/scan costs, travel expenses, travel costs (currently legal km money 0.42€/km), construction/project expenses (work clothes, protective precautions, ID card, visas, work materials, etc.) and transport costs. In the case of assignments outside the place of performance of the contract, the expenses will be invoiced.

45. For plotting and scanning services that are not included in the scope of the order, a running price of € 8,--excl. VAT will be charged. agreed.

46. Invoicing is done on a weekly basis; Subsequently, by arrangement, invoicing can be done on a monthly basis.

47. If a written objection is not made within fourteen days of receipt of the invoice, the invoice shall be deemed to have been accepted in terms of the amount and performance of the invoice.

#### VIII. Retention of Title and Intellectual Property Rights:

48. All documents supplied, such as plans, sketches, models and other technical documents, remain the property of the Contractor until the purchase price or fee has been paid in full. The Client must make the retention of title visible by means of suitable signs.

49. All documents such as plans, sketches and other technical documents of the Contractor as well as reproductions or illustrations thereof any kind shall remain the intellectual property of the Contractor and enjoy protection under intellectual property law, in particular copyright and design law. Any use not expressly granted, in particular reproduction, distribution, processing, reproduction or making available, as well as imitation, is not permitted.

50. If the Contractor has included a reference to the provision of the services by the Contractor in the documents provided, a change, removal or defacement of the designation of the creator on all documents such as plans, sketches and other technical documents is only permitted with the consent of the Contractor. The Contractor is entitled, the Client is obliged to indicate the name, the company name or the company name of the Contractor in publications and announcements concerning the subject of the planning.

51. The client is liable for ensuring that the submitted planning information, drawings, models or other specifications do not encroach on the intellectual property rights of third parties.

#### IX. Obligations of the Client:

52. The Client shall check the subject matter of the service for correctness and completeness immediately upon receipt. It is not permissible to carry out the planning object using the object of the service without prior examination. If the client does not have the necessary specialist knowledge for the audit itself, it must call in suitable experts at its own expense

53. If the Client has any doubts or questions regarding the subject matter of the service, the Client is obliged to contact the Contractor immediately for clarification. The client must transfer this duty of information to the persons realising the object of the planning.

54. If the object of service is used in the execution of the object of planning, the client is obliged to have it carried out only by competent persons in accordance with the general state of the art.

55. Insofar as it is necessary for the provision of services, the Client is obliged to provide the Contractor with any additional information, planning documents, information, specifications or the like in writing without undue delay. Points §21 sentences 2 and 3 and §22 apply mutatis mutandis.

#### X. Warranty:

56. The warranty is primarily provided by improving or replacing the services within a reasonable period of time. The Contractor has the right to choose in this regard. If an improvement or replacement is not possible or involves disproportionate effort, an appropriate price reduction must be granted. Only in the case of irremediable defects that hinder the use of the object of service is there a right of conversion. In the event of a timely warranty, a claim for damage caused by delay is excluded.

57. In the first six months after the handover of the work, the client must also prove the existence of a defect at the time of delivery. § 924a ABGB is expressly waived.

58. Claims arising from the warranty expire if the services of the Contractor have been changed or supplemented by third parties or by the Client itself or if the invoices have already been paid.

59. The warranty period is two months, unless otherwise agreed in writing.

60. Notices of defects and complaints of any kind must be announced in writing immediately - otherwise the warranty and compensation claims will be lost - with the most precise description of the defect possible. Verbal, telephone or non-immediate notices of defects and complaints will not be taken into account. Notices of defects and complaints that are not made within 14 days of delivery are in any case out of time. The Client shall bear the risk of delay and loss for the notification of defects and complaints.

61. If the client is a consumer within the meaning of the Consumer Protection Act, the statutory warranty rules apply exclusively. Sections 54 and 58 do not apply.

#### XI. Indemnification/Liability:

62. Liability for the technical design, calculations, technology, function, content, documentation, etc., as well as the responsibility for checking the performance of the Contractor remains with the Client. The Contractor shall only be liable for damages in the event of intent or gross negligence and within the scope of the statutory provisions for the trade of technical drawing. Liability for slight negligence, compensation for indirect or direct consequential damages, penalties, loss of sales, loss of production, financial losses, loss of profit and damages arising from claims by third parties is excluded. Our total liability is limited to directly caused damage and is limited to a maximum of € 5,000 in case of doubt. You will bring the retail prices into account. Claims for damages for consequential damages are excluded.

63. The Contractor shall only be liable for damage caused intentionally, provided that it does not involve personal injury or damage to property that it has taken over for processing. The existence of gross negligence must be proven by the injured party.

64. Liability for consequential damages, loss of profits, claims by third parties is excluded in any case. This also applies to damage caused by late completion (delay damages), in particular if the delay is due



to serious or unforeseeable operational disruptions, supply problems or a lack of workers. Any liability arising from incorrect use of the object of service is excluded.

65. Claims for damages shall become time-barred within six months from the date of knowledge of the damage and the person causing the damage.

66. Recourse claims against the Contractor arising from liability under the Product Liability Act are excluded.

67. The Contractor shall not be liable for any damage caused by our staff, incurred by the Client or third parties and/or consequential damages.

68. In the event that the Client violates one of the obligations stipulated in the Client, claims for damages and warranty claims of the Client are excluded.

69. If the client is a consumer within the meaning of the Consumer Protection Act, the statutory warranty rules apply exclusively.

70. The Client undertakes to refrain from poaching and/or taking over employees or through other unfair business practices, directly or indirectly, during the cooperation and up to 24 months after the end of all orders. The agreement applies to all directly and indirectly involved companies and employees as well as other poaching attempts and facts such as affiliated companies, subcontractors, headhunters, silent partnerships, customers and suppliers. In the event of a violation, whereby the attempt already constitutes a violation, a lump-sum contractual penalty of € 30,000 is to be paid immediately by the client for each violation of the contractual obligation, which is not subject to judicial moderation. The Contractor shall be entitled to claim damages in excess of the contractual penalty, but at least in the amount of one annual gross salary of the employee.

#### XII. Withdrawal from the contract:

71. In any case, in the event of default on the part of the Contractor, the Client's withdrawal is only permissible after a sufficient grace period has been set by registered letter. Delay in minor or insignificant (partial) services does not entitle the holder to withdraw from the contract.

72. In the event of default on the part of the Client in an obligation or obligations, in particular obligations, partial or other payment obligations, or cooperation activities, which make the execution of the order impossible or significantly impede, the Contractor is entitled to withdraw immediately. This does not affect statutory rights of withdrawal.

#### XIII. Handover:

73. In principle, the handover takes place by collection by the client at the contractor's place (collection debt). The handover by dispatch must be expressly agreed upon. If the Client fails to meet the intended handover date or refuses to hand over without authorization, the handover shall be deemed to have taken place on the scheduled handover date. In this case, the Contractor is entitled to charge an appropriate storage fee or to ship the object of the service together with planning documents at the expense of the Client.

#### XIV. Place of Performance and Jurisdiction:

74. The place of fulfillment and jurisdiction is Vienna unless the client is a consumer within the meaning of the Consumer Protection Act. The Contractor is also entitled to sue at the general place of jurisdiction of the Client.

#### XV. Severability:

75. Should any provision of these T&Cs be wholly or partially invalid or become invalid due to statutory provisions, the remaining provisions of these T&Cs shall remain unchanged. The parties undertake to replace the invalid provision with a valid provision of the content that comes closest to the invalid provision in economic terms.

#### XVI. Contract Validity/Order:

The following conditions apply, in order



1. The present agreement (offer, order confirmation) incl. attachments
2. Our General Terms and Conditions (available at <http://www.bimexperts.com/agb> and <https://www.rtech.at/agb/>)
3. The commissioning/ordering of the customer (the general terms and conditions of the client do not apply)



## General Terms and Conditions for Temporary Employment (as of 10/2015)

### I. Scope:

1. These General Terms and Conditions (GTC) govern all legal relationships between the Contractor (Temporary Agency) and the employing company (hereinafter referred to as the Client or Employee; The Contractor and the Employee are collectively referred to as the Contracting Parties).
2. The Contractor and the Employer agree that the T&Cs apply to all legal transactions between the Contractor and the Employee beyond the first legal transaction. The GTC also includes, in particular, all future assignments and follow-up and additional orders. These T&Cs and other provisions of the individual contract shall continue to apply even if the Contractor provides workers beyond the originally agreed or planned assignment period or if the request for workers is made orally. This is the case even if the current version of the GTC is not expressly agreed.
3. The Contractor expressly declares that it intends to conclude all contracts solely on the basis of these GTCs. The Contractor expressly objects to any contractual conditions of the Employer. The terms and conditions of the employer's contract shall only apply if expressly agreed in writing. If, as an exception, the validity of other contractual terms and conditions is agreed upon, their provisions shall only apply insofar as they do not contradict individual provisions of these GTCs. Non-contradictory provisions in the T&Cs remain in force side by side. Provisions made in framework agreements take precedence over these T&Cs insofar as they conflict with the provisions of these T&Cs; in all other respects, the framework agreements are supplemented by these GTCs.
4. These T&Cs can be [www.bimexperts.com/agb](http://www.bimexperts.com/agb) and <https://www.rtech.at/agb/> accessed and printed by the Contractor at any time via the Website. At the request of the Employer, the Contractor shall also provide the Employer with the GTC in printed form.
5. All changes and additions to these T&Cs and to the individual contract must be made in writing in order to be legally effective. Declarations by fax comply with the requirement to be in writing, but notifications by e-mail do not. This requirement of being in writing can also only be waived in writing. The Contractor and the Employer declare that there are no ancillary agreements to these T&Cs.
6. Employees of the Contractor are not entitled to make declarations of intent on behalf of the Contractor or to collect debts.

### II. Conclusion of Contract:

7. Offers from the Contractor are non-binding. The contract is concluded by signing the offer or the order confirmation by the employee. If these contract documents are not signed by the employer, the contract is concluded by the fact that the hired out workers begin their work assignment after the offer or an order confirmation has been submitted or are employed by the employer.
8. The details of the assignment, such as the start and duration of the work assignment, the place of the work assignment, the qualification of the hired out workers, etc., result exclusively from the contract documents signed by both parties to the contract, from the order confirmation from the contractor or from his offer, if no order confirmation is available.
9. Unless otherwise stated in the contractual documents, the assignment agreement is concluded for an indefinite period.
10. In the case of an indefinite assignment of workers, the employer must terminate the assignment contract in writing by registered letter or fax with a notice period of 4 weeks to the end of a working week (Friday). If the hired out workers are not further employed by the employer within the agreed notice period, the contractor is nevertheless entitled to the remuneration agreed with the employer until the end of the notice period.

### III. Scope of services:

11. The assignment takes place in accordance with the statutory provisions, in particular the Temporary Employment Act (AÜG).

12. The subject matter of the contract is only the provision of manpower, but not the provision of certain services or the achievement of a specific work result. The hired out workers work under the guidance, direction and responsibility of the employer.

13. The Contractor does not owe the Employee any kind of work success.

14. The Contractor is entitled to replace the hired out workers with other persons of equal value at any time. Without an express written agreement, the employee is not entitled to the assignment and deployment of a specific worker.

15. The Contractor shall be entitled to involve other temporary workers of its choice in order to meet the demand for personnel and, if necessary, to transfer to the employer employees purchased from them.

#### IV. Assignment fee:

16. The amount of the respective assignment fee is determined by the offer signed by the employer or by the order confirmation from the contractor. If an order is placed by the contractor without a prior offer, the contractor may demand reasonable remuneration from the employer.

17. If, after the order has been placed, the remuneration provisions for the hired out workers change due to statutory or collective agreement adjustments, the Contractor is entitled to adjust the agreed fee to the same extent as the increase in remuneration. If workers are employed beyond an agreed or expected end date, the pay provisions will continue to apply beyond this date.

18. The fee stated in the offer or in the order confirmation is exclusive of the statutory value added tax.

19. When concluding the assignment agreement, the employer must inform the contractor about the collective agreement applicable in the employing company, any works agreements and written remuneration agreements with the employer's workforce, piecework or premium work and working time regulations. The Employer shall immediately inform the Contractor of any changes in these circumstances during the period of cooperation. The employee is responsible for the accuracy of this information. If the employee fails to provide one of these notification obligations, he must compensate the contractor for any resulting disadvantages.

#### V. Billing:

20. The Contractor is entitled to bill the Employer on a weekly basis. The fee is to be transferred to the Contractor's account within 14 days of receipt of the invoice without any deduction and free of charge, stating the purpose of payment.

21. The Employer expressly agrees that the invoices may be sent to the Contractor exclusively electronically.

22. In the event of default of payment by the Employer, the Contracting Parties agree on an interest rate of 10 percentage points above the base interest rate within the meaning of § 352 UGB p.a. Furthermore, the Employer shall reimburse the Contractor for all expedient and necessary costs incurred as a result of the delay in payment, such as in particular expenses for reminders, collection attempts and any judicial or out-of-court lawyers' fees.

23. If the invoice is not objected to in writing within 14 days of receipt, the hours invoiced therein and the amount of the fee shall be deemed to have been approved and accepted by the employer.

24. The Employer shall not be entitled to offset any claims or claims against the Contractor against the fee for the provision of the Workers unless the Employer's claims have been established by a court or acknowledged in writing by the Contractor. There is no right of retention on the fee owed.

25. The basis for the settlement of the fee is the timesheets (proof of work) to be signed by the employee or his assistants on-site at least once a week or the evaluations from the employee's electronic time recording systems. If the timesheets are not signed by the employee or his assistants, the Contractor is entitled, but not obliged, to have the timesheets signed by the employer's customer in a

binding manner – provided that it is an assignment by a third party. With the signing of the timesheets by the employee, his assistants or the employer's customer, the hours worked are determined in a legally binding manner. If the employer's client does not sign the timesheets either, the records from the contractor are the basis for the billing. The burden of proof that the hours stated in the records of the contractor were not actually performed by the hired-out worker shall be borne by the employee.

26. If the employer is required to receive a breakdown of the hours between different projects in the time recording system, this must be announced by the employer before the start of work. Subsequent requirements in this regard are associated with additional costs.

27. If the use of hired-out workers is omitted for reasons beyond the fault of the contractor, the employer remains obliged to pay the full remuneration. This also applies in the event of non-use of the hired-out workers due to an unavoidable event.

#### VI. Rights and obligations of the employer:

28. The employer is obliged to comply with all legal provisions, in particular the Employee Protection Act, the AÜG and the AZG. If the Employee violates legal provisions, the Employee undertakes to indemnify and hold the Contractor harmless for any resulting disadvantages.

29. The employer has the duty to instruct, instruct, and supervise the hired-out workers.

30. The employer is obliged to take the necessary instruction, education, and hazard prevention measures and to provide the hired-out workers with proper and safe tools, equipment, work equipment, and occupational safety equipment. The costs of any medical examinations required by law or for operational reasons are borne by the employee.

31. The employer must train and instruct the hired out workers in the handling of the equipment and machines. Written evidence of necessary training or instruction must be provided by the Employer to the Contractor upon request.

32. The employer undertakes to deploy the hired-out workers only in accordance with the contractually agreed qualifications and in the agreed company or for the agreed external assignment. He will not give instructions to the respective workers on activities for which they are not qualified.

33. The employee must verify the existence of the corresponding permit or authorization before the hired-out worker puts vehicles or equipment into service for the operation for which a permit or authorization is required. If the employer fails to carry out such a check, he must compensate the contractor for all resulting disadvantages.

34. If the Employer undertakes further training measures at his own expense and the hired-out workers thereby acquire a higher qualification, the Employer will inform the Contractor immediately. In this case, the Contractor shall be entitled to adjust the fee according to the qualification obtained from the date of the higher qualification to the same extent as the increase in the remuneration for the higher qualified worker. If the employer fails to do so, he must compensate the contractor for all resulting disadvantages.

35. During the work assignment, the employer must provide the hired-out workers with boxes and premises that can be locked for personal belongings, in particular clothing, and for any tools and other equipment provided by the contractor. If this is not possible for the Employee, he must inform the Contractor in writing.

36. Hired-out workers are to be granted the use of the employer's communal facilities (e.g. canteen) in the same way as employees of the employer.

37. If the hired out workers record their hours worked by the employer online (online time recording), the employer undertakes to provide the workers with access to the Internet for this activity.

38. The Employer is obliged to provide the Contractor with access to the place of employment of the hired out workers at any time in order to verify compliance with the Employer's obligations and to provide the necessary information.

39. If a worker is absent for whatever reason or does not appear at the agreed place of employment, the employer must immediately inform the contractor of this in a verifiable manner. In such cases, the Contractor shall ensure that another worker is made available within a reasonable period of time.

40. Changes in the company, address, legal form, or other relevant information must be notified by the Contractor immediately in writing.

41. The Employer undertakes to refrain from directly or indirectly poaching workers from the Contractor directly or indirectly, either systematically or through other unfair commercial practices. If the employer breaches this obligation, he is obliged to compensate the contractor for the damage caused as a result.

42. The Client undertakes to refrain from poaching and/or taking over employees or through other unfair business practices, directly or indirectly, during the cooperation and up to 24 months after the end of all orders. The agreement applies to all directly and indirectly involved companies and employees as well as other poaching attempts and facts such as affiliated companies, subcontractors, headhunters, silent partnerships, customers, and suppliers. In the event of a violation, whereby the attempt already constitutes a violation, a lump-sum contractual penalty of € 30,000 is to be paid immediately by the client for each violation of the contractual obligation, which is not subject to judicial moderation. The Contractor shall be entitled to claim damages in excess of the contractual penalty, but at least in the amount of one annual gross salary of the employee.

#### VII. Early Termination of the Contract:

43. The Contractor is entitled to terminate the contract prematurely without observing deadlines or deadlines if there is an important reason.

In particular, good cause exists if the Employee: a. is more than five days in arrears with a payment to which the Employee is obliged to the Contractor despite a reminder; or b. violates any legal or contractual provisions despite being asked to do so; c. fails to fulfill its duty of management, supervision, or care towards the hired out workers; d. Unable to provide the Contractor with a suitable workforce due to force majeure, illness, or accident of one or more workers.

Notwithstanding the right to terminate the contract prematurely, in the event of default of payment by the Employer, the Contractor shall be released from any obligation to perform and shall be entitled to immediate dismissal of the hired out Workers at the expense of the Employer.

44. Notwithstanding the right to terminate the contract prematurely, the Contractor shall be released from any obligation to perform in the event of default in payment by the Employer and shall be entitled to immediately dismiss the leased employees at the Employer's expense.

45. If the contract is terminated prematurely for reasons within the sphere of the employer or if the employees are recalled by the contractor for such a reason, the employee cannot assert any claims, in particular from warranty or damages, against the contractor.

#### VIII. Warranty:

46. The Contractor warrants that the workers provided have given their consent to the assignment to third parties.

47. The qualification owed by the hired-out workers corresponds to the average skills of a worker unless a special qualification or desired additional training of the workers has been expressly stated in the contract documents and confirmed in writing by the contractor.

48. The Employer acknowledges that the Contractor cannot verify the actual qualification of the hired-out worker. The Contractor shall only guarantee the qualifications of the workers which it can verify by inspecting the certificates of the hired out workers.

49. Immediately after the start of the assignment, the employer is obliged to check the hired-out workers with regard to their qualifications and willingness to work. If a hired-out worker does not meet the agreed qualification or willingness to work, any defects must be reported to the Contractor in writing

immediately, but in any case within 48 hours, stating them in detail, otherwise claims for warranty and damages are excluded.

50 If the Contractor is responsible for a deficient qualification of the worker and the Employer demands improvement in good time, this shall be provided by replacing the worker concerned within a reasonable period of time.

51. The employer must also prove any defectiveness in the first six months after the provision of the workers.

52. Warranty and compensation claims of the employee are to be asserted in court within six months in the event of any loss.

#### IX. Liability:

53. The Contractor shall not be liable to the Employer for any damage caused to the Employee or by a third party caused by hired-out workers, nor shall it be liable for loss, theft, or damage to the tools, drawings, samples, devices, and other items and sums of money provided.

54. If the employer is responsible for the early termination of the contract or dismissal of workers, he is liable to the contractor for the resulting disadvantages. In these cases, the employee must pay the remuneration until the end of the assignment originally intended or agreed.

55. The Contractor shall not be liable for the omission or delay in the performance of the work, in particular in the event of force majeure, illness, or accident of the hired-out worker.

56. The contractor shall not be liable for consequential and financial damages, production losses caused by hired-out workers, and for penalties that the employer has entered into towards its customer.

57. The contracting parties expressly agree that liability on the part of the Contractor is limited to gross negligence and intent.

#### X. Confidentiality:

58. Should the Employee or the Contractor or Assistant of one of the two Contracting Parties become aware of confidential information relating to the Contractor, the Employee or the Customer, or the Business Partner of the Contractor or the Employee, the Contracting Parties undertake to keep it secret and not to communicate or otherwise make available to a third party – in any way whatsoever. Confidential information includes (but is not limited to) all data within the meaning of the Data Protection Act (in particular personal data and particularly sensitive data according to the definitions contained in § 4 DSG), information and data of a commercial and business nature (business relationships, offers, price structure, etc.), as well as information and data of a technical nature, regardless of whether it is shared by the respective contracting party itself, its customers or a third party with whom the respective contracting party is in a business relationship. This regulation does not apply to information that was already known to the respective contracting party before the start of the business relationship.

59. Application documents or other data relating to an employee employed by the Contractor, which are transmitted to the Employer by the Contractor, shall remain the property of the Contractor. Application documents must be treated confidentially and, if not used, immediately returned to the Contractor or demonstrably destroyed. The Employer undertakes not to disclose, retain or reproduce to third parties the data of the employees proposed by the Contractor.

60. The contracting parties undertake to maintain confidentiality regarding financial agreements (fees, etc.) between the contractor and the employee.

61. The Contractor is entitled to list the Employee (company name, address) as well as the project (project name and location) for which the hired workers will be deployed as a reference on its Internet website unless the Contractor has objected to this in writing or by fax at the beginning of the business relationship. The employee declares his explicit consent to this procedure.

#### XI. General:

62. The place of performance for the provision of labor and payment by the employer is the location of the contractor in Vienna.

63. The Employer and the Contractor agree on the application of Austrian law; however, the non-mandatory rules of reference of private international law and the provisions of the UN Convention on Contracts for the International Sale of Goods do not apply. The place of jurisdiction for all disputes is the court responsible for commercial matters for Vienna Innere Stadt. The Contractor is also entitled to sue at the employer's general place of jurisdiction.

64. Should individual provisions of these GTC or the Individual Agreement be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions. The invalid or unenforceable provision shall be replaced by a provision which, at the time of the supplementary interpretation of the contract, reads in the same way as a provision that could just about have been agreed to be permissible within the legal framework and according to case law.

### General Terms and Conditions for Management Consulting (as of March 2018)

#### 1. General Principles / Scope

1.1 These General Terms and Conditions shall apply exclusively to all legal transactions between the Client and the Contractor (Management Consultant). In each case, the version valid at the time of the conclusion of the contract is decisive.

1.2 These General Terms and Conditions shall also apply to all future contractual relationships, i.e. even if this is not expressly stated in the case of additional contracts.

1.3 Conflicting general terms and conditions of the Client are invalid unless they are expressly acknowledged in writing by the Contractor (Management Consultant).

1.4 In the event that individual provisions of these General Terms and Conditions are and/or become invalid, this shall not affect the validity of the remaining provisions and the contracts concluded on the basis of them. The invalid provision is to be replaced by a valid provision that comes closest to its meaning and economic purpose.

#### 2. Scope of the consulting assignment/deputy

2.1 The scope of a specific consulting assignment is contractually agreed on a case-by-case basis.

2.2 The Contractor (Management Consultant) is entitled to have the tasks incumbent on him performed in whole or in part by third parties. The payment of the third party is made exclusively by the contractor (management consultant) himself. There is no direct contractual relationship of any kind between the third party and the client.

2.3 During and up to the expiry of three years after the termination of this contractual relationship, the Client undertakes not to enter into any business relationship of any kind with persons or companies that the Contractor (Management Consultant) uses to fulfill its contractual obligations. In particular, the Client shall not commission these persons and companies with such or similar consulting services that the Contractor (Management Consultant) also offers.

#### 3. Client's duty to provide information/declaration of completeness

3.1 The Client shall ensure that the organizational framework conditions at its place of business permit work to be carried out as undisturbed as possible and which is conducive to the rapid progress of the consulting process.

3.2 The Client shall also inform the Contractor (Management Consultant) in detail about previously conducted and/or ongoing consultations – also in other specialist areas.



3.3 The Client shall ensure that the Contractor (Management Consultant) is provided with all documents necessary for the fulfillment and execution of the Consulting Assignment in a timely manner, even without the Contractor's special request, and that the Contractor is informed of all processes and circumstances that are important for the execution of the Consulting Assignment. This also applies to all documents, processes, and circumstances that only become known during the consultant's work. 3.4 The Client shall ensure that its employees and the employee representation (works council) provided for by law and, if applicable, established are informed by the latter before the commencement of the Contractor's (management consultant's) activity.

#### 4. Ensuring independence

4.1 The Contracting Parties undertake to mutual loyalty.

4.2 The Contracting Parties mutually undertake to take all appropriate precautions to prevent the independence of the commissioned third parties and employees of the Contractor (Management Consultant) from being jeopardized. This applies in particular to offers of the Client for employment or the acceptance of orders on its own account.

#### 5. Reporting / Reporting Obligation

5.1 The Contractor (Management Consultant) undertakes to report on the progress of its work to the Client in accordance with its work, that of its employees, and, if applicable, that of commissioned third parties.

5.2 The Client shall receive the final report within a reasonable period of time, i.e. two to four weeks, depending on the type of consultancy assignment, after completion of the assignment.

5.3 The Contractor (Management Consultant) is not subject to instructions in the production of the agreed work and acts at its own discretion and under its own responsibility. He is not bound to a specific place of work or working hours.

#### 6. Protection of intellectual property

6.1 The copyrights to the works created by the Contractor (Management Consultant) and its employees and commissioned third parties (in particular offers, reports, analyses, expert opinions, organizational charts, programs, service descriptions, drafts, calculations, drawings, data carriers, etc.) remain with the Contractor (Management Consultant). They may be used by the Client during and after the termination of the contractual relationship exclusively for purposes covered by the contract. In this respect, the Client is not entitled to reproduce and/or distribute the work(s) without the express consent of the contractor (management consultant). Under no circumstances does an unauthorized reproduction/distribution of the work give rise to any liability of the contractor (management consultant) towards third parties – in particular for the correctness of the work.

6.2 The Client's breach of these provisions entitles the Contractor (Management Consultant) to immediately terminate the contractual relationship prematurely and to assert other legal claims, in particular for injunctive relief and/or damages.

#### 7. Warranty

7.1 The Contractor (Management Consultant) is entitled and obliged, regardless of fault, to remedy any inaccuracies and deficiencies in its performance that become known. He will inform the Client of this without delay.

7.2 This entitlement of the Client shall expire after six months after the performance of the respective service.

#### 8. Liability / Indemnification

8.1 The Contractor (Management Consultant) shall only be liable to the Client for damages – with the exception of personal injury – in the event of gross negligence (intent or gross negligence). This also applies mutatis mutandis to damages caused by third parties engaged by the Contractor.



8.2 Claims for damages by the Client may only be asserted in court within six months of becoming aware of the damage and the tortfeasor, but no later than three years after the event giving rise to the claim.

8.3 In each case, the Client shall provide proof that the damage is attributable to the fault of the Contractor.

8.4 Insofar as the Contractor (Management Consultant) performs the work with the help of third parties and warranty and/or liability claims arise against these third parties in this context, the Contractor (Management Consultant) assigns these claims to the Client. In this case, the Client shall give priority to these third parties.

## 9. Confidentiality / Data Protection

9.1 The Contractor (Management Consultant) undertakes to maintain absolute secrecy about all business matters that come to its knowledge, in particular business and trade secrets as well as any information it receives about the nature, scope of operations, and practical activities of the Client.

9.2 Furthermore, the Contractor (Management Consultant) undertakes to maintain confidentiality vis-à-vis third parties regarding the entire content of the Work as well as all information and circumstances received in connection with the creation of the Work, in particular also regarding the data of the Client's clients.

9.3 The Contractor (Management Consultant) is released from the duty of confidentiality towards any assistants and deputies whom he uses. However, he must completely transfer the duty of confidentiality to them and is liable for their breach of the duty of confidentiality as if it were his own violation.

9.4 The duty of confidentiality extends without limitation even beyond the end of this contractual relationship. Exceptions exist in the case of statutory obligations to testify.

9.5 The Contractor (Management Consultant) is entitled to process personal data entrusted to it within the scope of the purpose of the contractual relationship. The Client warrants to the Contractor that all necessary measures have been taken for this purpose, in particular those within the meaning of the Data Protection Act, such as declarations of consent by the data subjects.

## 10. Fees

10.1 Upon completion of the agreed work, the Contractor (Management Consultant) shall receive a fee in accordance with the agreement between the Client and the Contractor (Management Consultant). The contractor (management consultant) is entitled to submit interim accounts according to the progress of the work and to demand discounts corresponding to the respective progress. The fee is due upon invoicing by the Contractor.

10.2 In each case, the Contractor (Management Consultant) will issue an invoice entitling the holder to deduct input tax with all the features required by law.

10.3 Cash expenses, expenses, travel expenses, etc. incurred are to be reimbursed additionally by the Client against the invoice of the Contractor (Management Consultant).

10.4 If the agreed work is not carried out for reasons on the part of the Client or due to a justified premature termination of the contractual relationship by the Contractor (Management Consultant), the Contractor (Management Consultant) shall retain the right to payment of the entire agreed fee less saved expenses. In the case of an hourly fee, the fee is to be paid for the number of hours that could have been expected for the entire agreed work, less the expenses saved. The saved expenses are agreed at a flat rate of 30 percent of the fee for those services that the contractor has not yet provided by the date of termination of the contractual relationship.

10.5 In the event of non-payment of interim invoices, the Contractor (Management Consultant) shall be released from its obligation to provide further services. However, this does not affect the assertion of further claims resulting from non-payment.

### 11. Electronic Invoicing

11.1 The Contractor (Management Consultant) is entitled to send invoices to the Client, including in electronic form. The Client expressly agrees to the sending of invoices in electronic form by the Contractor (Management Consultant).

### 12. Duration of the Contract

12.1 In principle, this contract ends upon completion of the Project.

12.2 Notwithstanding this, the contract may be terminated at any time for important reasons by either party without observing a notice period. In particular, good cause is to be regarded as - if a contractual partner breaches essential contractual obligations or - if a contractual partner defaults on payment after the opening of insolvency proceedings. - if there are justified doubts about the creditworthiness of a contractual partner for whom no insolvency proceedings have been opened and the latter neither makes advance payments at the request of the contractor nor provides suitable security before the contractor performs and the poor financial situation was not known to the other contractual partner at the time the contract was concluded.

### 13. Final Provisions

13.1 The Contracting Parties confirm that they have provided all information in the Contract conscientiously and truthfully and undertake to notify each other of any changes as soon as possible.

13.2 Changes to the contract and these GTC must be made in writing; as well as a departure from this formal requirement. There are no verbal ancillary agreements.

13.3 This Agreement shall be governed by substantive Austrian law to the exclusion of the conflict of law rules of private international law. The place of performance is the place of professional establishment of the contractor (management consultant). The Court of Vienna has jurisdiction over disputes.

## 1. Scope of Contract and Validity

1.1. All orders and agreements are only legally binding if they are signed by the Contractor in writing and in accordance with the company and bind only to the extent specified in the order confirmation. Terms and conditions of purchase of the client are hereby excluded for the legal transaction in question and the entire business relationship. Offers are subject to change.

## 2. Performance and Testing

2.1. The subject of an order may be: - Elaboration of organizational concepts - Global and detailed analyses - Creation of individual programs - Delivery of library (standard) programs - Acquisition of usage rights for software products - Acquisition of work use permits - Participation in commissioning (conversion support) - Telephone consultation - Program maintenance - Creation of program carriers - Other services

2.2. The elaboration of individual organizational concepts and programs is carried out according to the type and scope of the binding information, documents, and aids provided in full by the Client. This also includes practice-oriented test data as well as testing facilities to a sufficient extent, which the client makes available in a timely manner, during normal working hours, and at his own expense. If the client is already working in real operation on the system made available for testing, the responsibility for securing the real data lies with the client.

2.3. The basis for the creation of individual programs is the written description of services, which the Contractor prepares against cost calculation on the basis of the documents and information made available to him or by the Client. This service description must be checked by the client for correctness and completeness and must be provided with his approval endorsement. Requests for changes that occur later may lead to separate appointments and price agreements.

2.4. Individually created software or program adaptations require program acceptance for the respective program package in question no later than four weeks after delivery by the customer. This is confirmed in a protocol by the client. (Verification of correctness and completeness on the basis of the specifications accepted by the Contractor by means of the test data provided under point 2.2). If the client allows the period of four weeks to elapse without program acceptance, the delivered software shall be deemed to have been accepted on the end date of the specified period. In any case, if the software is used in real operation by the client, the software is deemed to have been accepted. Any defects that may occur, i.e. deviations from the written agreed service description, must be reported by the client to the contractor in a sufficiently documented manner, who will endeavor to remedy the defects as quickly as possible. If there are significant defects reported in writing, i.e. that live operation cannot be started or continued, a new acceptance is required after the defects have been rectified. The Client is not entitled to refuse the acceptance of software due to insignificant defects.

2.5. When ordering library (standard) programs, the Client confirms with the order that he is aware of the scope of services of the ordered programs.

2.6. If, in the course of the work, it turns out that the execution of the order is factually or legally impossible in accordance with the specification, the Contractor is obliged to notify the Client immediately. If the Client does not amend the specification of services to this effect or creates the prerequisite for execution to be possible, the Contractor may refuse to carry out the work. If the impossibility of execution is the result of an omission on the part of the Client or a subsequent amendment of the specification by the Client, the Contractor is entitled to withdraw from the contract. The costs and expenses incurred up to that point for the work of the Contractor as well as any dismantling costs are to be reimbursed by the Client.

2.7. The dispatch of program carriers, documentation, and service descriptions is at the expense and risk of the Client. In addition, training and explanations requested by the client will be invoiced separately. Insurance is only provided at the request of the client.

2.8. We expressly point out that a barrier-free design (of websites) within the meaning of the Federal Act on the Equality of Persons with Disabilities (Federal Disability Equality Act – BGStG)" is not included in the offer, unless this has been separately or individually requested by the client. If the barrier-free design has not been agreed upon, it is the client's responsibility to check the permissibility of the service with regard to the Federal Disability Equality Act. Likewise, the Client must check the content provided by the Client for its legal, in particular competition, trademark, copyright, and administrative law admissibility. In the event of slight negligence or after fulfilling any duty to warn the customer, the contractor shall not be liable for the legal admissibility of content if it has been specified by the customer.

### 3. Prices, Taxes and Fees

3.1. All prices are quoted in Euros, excluding VAT. They apply only to the present order. The prices quoted are quoted from the Contractor's registered office or place of business. The costs of program carriers (e.g. CDs, magnetic tapes, magnetic disks, floppy disks, streamer tapes, magnetic tape cassettes, etc.) as well as any contract fees will be invoiced separately.

3.2. In the case of library (standard) programs, the list prices valid on the day of delivery apply. For all other services (organizational consulting, programming, training, conversion support, telephone consultation, etc.), the workload will be charged at the rates applicable on the day the service is provided. Deviations from a time expenditure on which the contract price is based, for which the Contractor is not responsible, will be charged according to the actual incurrence.

3.3. The costs for travel, daily and overnight allowances will be invoiced separately to the Client according to the applicable rates. Travel time is considered working time.

### 4. Delivery date

4.1. The Contractor shall endeavor to meet the agreed deadlines of fulfillment (completion) as closely as possible.

4.2. The intended fulfillment dates can only be met if the Client provides all necessary work and documents in full by the dates specified by the Contractor, in particular, the specifications accepted by the Contractor in accordance with Section 2.3, and fulfills its obligation to cooperate to the necessary extent. Delays in delivery and cost increases caused by incorrect, incomplete, or subsequently changed data and information or documents provided are not the responsibility of the Contractor and cannot lead to the Contractor's default. Any additional costs resulting from this shall be borne by the Client.

4.3. In the case of orders comprising several units or programs, the Contractor is entitled to carry out partial deliveries or to submit partial invoices.

### 5. Payment

5.1. The invoices submitted by the Contractor, including VAT, are payable no later than 14 days from receipt of the invoice without any deduction and free of charge. For partial invoices, the payment terms specified for the entire order apply analogously.

5.2. In the case of orders that comprise several units (e.g. programs and/or trainings, realizations in partial steps), the Contractor is entitled to invoice each individual unit or service after delivery.

5.3. Adherence to the agreed payment dates is an essential condition for the execution of the delivery or performance of the contract by the Contractor. Failure to comply with the agreed payments entitles the Contractor to stop the work in progress and withdraw from the contract. All associated costs as well as the loss of profit are to be borne by the client. In the event of default of payment, default interest will be charged to the extent customary for banks. In the event of non-compliance with two installments in the case of partial payments, the Contractor shall be entitled to allow the loss of the deadline to come into force and to make accepted acceptances due.

5.4. The Client is not entitled to withhold payments due to incomplete overall delivery, guarantee or warranty claims or defects.

## 6. Copyright and Use

6.1. After payment of the agreed fee, the Contractor grants the Client a non-exclusive, non-transferable, non-sublicensable, and unlimited right to use the Software for the hardware specified in the Agreement and to the extent of the purchased number of licenses for simultaneous use on several workstations, to use all work results created on the basis of the Contractor's contract for its own use, internal use. All other rights remain with the Contractor. The Client's participation in the production of the software does not acquire any rights over the use specified in the present contract. Any infringement of the Contractor's copyrights will result in claims for damages, in which case full satisfaction must be paid.

6.2. The Client is permitted to make copies for archiving and data backup purposes on the condition that the Software does not contain an explicit prohibition by the Licensor or third parties and that all copyright and proprietary notices are transferred to these copies unchanged.

6.3. Should the disclosure of the interfaces be necessary for the establishment of interoperability of the software in question, this shall be instructed by the Client to be paid to the Contractor for a fee of costs. If the contractor does not comply with this request and decompilation is carried out in accordance with copyright law, the results are to be used exclusively to establish interoperability. Misuse will result in damages.

6.4. If the Client is provided with software whose license holder is a third party (e.g. standard software from Microsoft), the granting of the right of use is based on the license terms of the license holder (manufacturer).

## 7. Right of withdrawal

7.1. In the event that an agreed delivery time is exceeded due to the sole fault or unlawful action of the Contractor, the Client shall be entitled to withdraw from the order in question by registered letter, even if the agreed service is not provided in substantial parts within the reasonable grace period and the Client is not at fault for this.

7.2. Force majeure, labor disputes, natural disasters, and transport blocks, as well as other circumstances beyond the Contractor's control, release the Contractor from the obligation to deliver or allow the Contractor to redetermine the agreed delivery time.

7.3. Cancellations by the Client are only possible with the written consent of the Contractor. If the Contractor agrees to a cancellation, he has the right to charge a cancellation fee in the amount of 30% of the contract value of the entire project that has not yet been invoiced, in addition to the services rendered and the costs incurred.

## 8. Warranty, Maintenance, Modifications

8.1. The Contractor warrants that the Software performs the functions described in the related documentation, provided that the Software is used on the operating system described in the Agreement.

8.2.1 The prerequisite for the elimination of the error is that – the Client adequately describes the error in an error message and this is determinable by the Contractor; – the contracting authority provides the contractor with all the documents necessary for the rectification of errors; – the Client or a third party attributable to the Client has not made any interference with the Software; – the software is operated under the intended operating conditions according to the documentation.

8.2.2 In the event of a warranty, improvement shall in any case take precedence over price reduction or conversion. In the event of a justified notice of defects, the defects shall be remedied within a reasonable period of time, whereby the Client shall enable the Contractor to take all necessary measures to investigate and remedy the defects. The presumption of defectiveness pursuant to § 924 ABGB is excluded.

8.2.3 Corrections and additions that prove to be necessary until the delivery of the agreed service due to organizational and programmatic deficiencies for which the Contractor is responsible shall be carried out free of charge by the Contractor.

8.3. Costs for assistance, misdiagnosis as well as the elimination of errors and faults, for which the Client is responsible, as well as other corrections, changes and additions shall be carried out by the Contractor against the charge. This also applies to the remedy of deficiencies if program changes, additions or other interventions have been made by the client itself or by a third party.

8.4. Furthermore, the Contractor assumes no liability for errors, malfunctions, or damages resulting from improper operation, modified operating system components, interfaces, and parameters, use of unsuitable organizational means and data carriers, insofar as such are prescribed, abnormal operating conditions (in particular deviations from the installation and storage conditions) or transport damage.

8.5. For programs that are subsequently modified by the Client's own programmers or third parties, any warranty by the Contractor is void.

8.6. Insofar as the subject matter of the order is the modification or addition of already existing programs, the warranty refers to the modification or addition. This does not revive the warranty for the original program.

8.7. Warranty claims expire six (6) months from the date of delivery.

## 9. Liability

9.1. The Contractor shall only be liable to the Client for damages demonstrably caused by the Client in the event of gross negligence. This also applies mutatis mutandis to damages that are attributable to third parties consulted by the Contractor. In the event of personal injury caused by the contractor, the contractor shall be liable without limitation.

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

9.3. Claims for damages shall become statute-barred in accordance with the statutory provisions, but no later than one year from the date of knowledge of the damage and the tortfeasor.

9.4. Insofar as the Contractor performs the work with the help of third parties and warranty and/or liability claims arise against these third parties in this context, the Contractor assigns these claims to the Client. In this case, the Client shall give priority to these third parties.

9.5. If the data backup is expressly agreed as a service, liability for the loss of data is not excluded by way of derogation from point 9.2, but for the restoration of the data is limited to a maximum of EUR 10% of the order amount per claim, but not more than EUR 15,000,-. Further warranty and damage claims of the Client than those mentioned in this contract - regardless of the legal basis - are excluded.

## 10. Loyalty

10.1. The Contracting Parties undertake mutual loyalty. You will refrain from any poaching and employment, including through third parties, of employees who have worked on the execution of the orders of the other contractual partner during the term of the contract and 12 months after the termination of the contract. The contractual partner who violates this is obliged to pay lump-sum damages in the amount of one year's salary of the employee.

## 11. Confidentiality

11.1. The Contractor obliges its employees to comply with the provisions of § 6 of the Data Protection Act.

## 12. Miscellaneous

12.1 Should individual provisions of this contract be or become invalid, the remaining content of this contract shall not be affected. The contracting parties will work together in partnership to find a settlement that comes as close as possible to the invalid provisions.

### 13. Final Provisions

13.1 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. In the event of any disputes, the territorial jurisdiction of the competent court for the Contractor's place of business in Vienna shall be deemed to have been agreed upon. For sales to consumers within the meaning of the Consumer Protection Act, the above provisions apply only to the extent that the Consumer Protection Act does not necessarily provide for other provisions.



## 1. General

1.1. The Contractor (Contractor) provides services for the Client (Client) in the field of information technology and the operation of hardware and software components in compliance with the enclosed Service Level Agreements (SLAs), which form an integral part.

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

## 2. Scope of services

2.1. The exact scope of the Contractor's services is set out in the respective SLA with the Client. Unless otherwise agreed, the Contractor shall provide the Services during the Contractor's usual business hours in accordance with the SLA. The Contractor will ensure the provision and availability of the Services in accordance with the respective SLA.

2.2. The basis of the facilities and technology used for the provision of services by AN is 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 will make a corresponding offer at the request of the Client.

2.3. The Contractor is entitled to change the facilities 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 in excess of the agreed scope of services shall be remunerated by the Client on the basis of actual personnel and material expenses at the rates applicable to the Contractor in each case. This includes, in particular, services outside of the Contractor's usual business hours, the analysis and elimination of malfunctions and errors caused by improper handling or operation by the Client, or other circumstances for which the Contractor is not responsible. Likewise, training services are generally not included in the services and require a separate agreement.

2.5. Insofar as 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 on the basis of the respective terms and conditions of the third party. The Contractor is only responsible for the services provided by him/herself. 2.6. We expressly point out that a barrier-free design within the meaning of the Federal Act on the Equality of Persons with Disabilities (Federal Disability Equality Act – BGStG)" is not included in the offer, unless it has been separately or individually requested by the Client. If the barrier-free design has not been agreed upon, it is the client's responsibility to check the permissibility of the service with regard to the Federal Disability Equality Act.

## 3. Client's Obligations to Cooperate and Provide

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

3.2. Insofar as the services are provided on-site at the Client's premises, the Client shall provide the Client free of charge with the network components, connections, supply current including peak voltage compensation, emergency power supplies, parking spaces for systems, workplaces, and infrastructure in the required scope and quality (e.g. air conditioning) required for the provision of the services by the Contractor. In any case, the Client is responsible for compliance with the requirements required by the respective manufacturer for the operation of the hardware. The Client is also responsible for room and building security, including protection against water, fire, and access by unauthorized persons. The Client is responsible for special security precautions (e.g. security cells) on his premises. The Client is not entitled to give instructions to the employees of the Contractor - of any kind - and will bring all

requests regarding the provision of services exclusively to the contact person designated by the Contractor.

3.3. On the agreed dates and at its own expense, the Client shall provide all information, data, and documents required by the Contractor for the execution of the order in the form required by the Contractor and, if desired, support the Contractor in the analysis of problems and the elimination of faults, the coordination of processing orders and the coordination of services. Changes in the Client's workflows that may cause changes in the services to be provided by the Contractor to the Client require prior agreement with the Contractor with regard to their technical and commercial effects.

3.4. Insofar as this is not expressly included in the scope of services provided by the Contractor, the Client shall provide a network connection at its own risk and expense.

3.5. The Client is obliged to treat the passwords and log-ins required by the Contractor for the use of the Services confidentially.

3.6. The Client shall additionally keep the data and information handed over to the Contractor with him so that they can be reconstructed at any time in the event of loss or damage.

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

3.8. If the Client fails to comply with its obligations to cooperate on the agreed dates or to the extent envisaged, the services provided by the Contractor shall nevertheless be deemed to have been rendered in accordance with the contract, despite possible restrictions. Schedules for the services to be provided by AN will be shifted to a reasonable extent. The Client shall separately reimburse the Contractor for the additional expenses and/or costs incurred by the Contractor as a result at the rates applicable to the Contractor from time to time.

3.9. The Client shall ensure that its employees and third parties attributable to it treat the facilities and technologies used by the Contractor as well as any assets made available to it with care; the Client shall be liable to the Contractor for any damage.

3.10. Unless otherwise agreed, the Client shall provide and collaborate free of charge.

#### 4. Personnel

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

#### 5. Change Requests

5.1. Both parties may request changes to the scope of services at any time ("Change Request"). However, a requested change must provide a precise description of the same, 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 both parties have signed it in a legally valid manner.

#### 6. Failure to perform

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 inadequately, i.e. with significant deviations from the agreed quality standards, the Contractor is obliged to start remedying the defects immediately and to provide its services properly and free of defects within a reasonable period of time by repeating the services concerned or carrying out necessary remedial work at its option.

6.2. If the defect is based on the provision or cooperation of the Client or on a breach of the obligations of the Client in accordance with Section 3.9, any obligation to remedy the defects free of charge is

excluded. In these cases, the services provided by the Contractor shall nevertheless be deemed to have been provided in accordance with the contract, despite possible restrictions. At the request of the Client, the Contractor will remedy the defect for a fee.

6.3. The Client shall assist the Contractor in remedying defects and provide all necessary information. Any defects that have occurred must be reported by the Client immediately in writing or by e-mail to the Contractor. The Client shall bear the additional costs incurred in rectifying errors resulting from a late notification.

6.4. The provisions of this section shall apply mutatis mutandis to any deliveries of hardware or software products from the Contractor to the Client. The warranty period for such deliveries is 6 months from the date of delivery. § 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 payment has been made in full, AN reserves ownership of all hardware and software products supplied by it.

## 7. Contractual penalty

7.1. The Contractor is obliged to comply with the degree of fulfillment or recovery times specified in the SLA according to priorities. If the Contractor exceeds the time limits specified in the SLA for the restoration, the Contractor must pay penalties to the Client for each hour or part thereof until the actual restoration (fulfilment) in accordance with the SLA: The above-mentioned penalties per year are limited to 20% of the total annual remuneration. The assertion of a further claim for damages, except in the case of intent or gross negligence, is excluded. In the event that penalties are exceeded, the Contractor must be informed of these in writing without delay.

## 8. Liability

8.1. The Contractor shall only be liable to the Client for damages demonstrably caused by the Client in the event of gross negligence. This also applies mutatis mutandis to damages caused by third parties engaged by the Contractor. In the event of personal injury caused by the contractor, 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 claims by third parties – is expressly excluded.

8.3. Claims for damages shall become statute-barred in accordance with the statutory provisions, but no later than one year from the date of knowledge of the damage and the tortfeasor.

8.4. Insofar as the Contractor performs the work with the help of third parties and warranty and/or liability claims arise against these third parties in this context, the Contractor assigns these claims to the Client.

8.5. If the data backup is expressly agreed as a service, liability for the loss of data is not excluded by way of derogation from Section 8.2, but for the restoration of the data is limited to a maximum of EUR 10% of the order amount per claim, but not more than EUR 15,000,-. Further warranty and damage claims of the Client than those mentioned in this contract - regardless of the legal basis - are excluded.

## 9. Remuneration

9.1. The remuneration and conditions to be paid by the Client result from the contract. The statutory value-added tax will be charged additionally.

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

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

9.4. Unless otherwise contractually agreed, one-off remuneration after the provision of services, current remuneration shall be charged quarterly in advance. The invoices created by the Contractor, including VAT, are payable no later than 14 days from receipt of the invoice without any deduction and free of charge. For partial invoices, the payment terms specified for the entire order apply analogously. A payment shall be deemed to have been made on the day on which the Contractor is able to dispose of it. If the Client is in arrears with his payments, the Contractor shall be entitled to offset the statutory default interest and all costs necessary for recovery. If the Client's delay exceeds 14 days, the Contractor is entitled to discontinue all services. In addition, the Contractor is entitled to make the fee for all services already rendered immediately due, regardless of any payment deadlines.

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

9.6. The Client is only permitted to set off with a counterclaim acknowledged by the Contractor or legally established. The Client is not 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 as and as long as obligations due to force majeure, such as war, terrorism, natural disasters, fire, strikes, lockouts, embargoes, sovereign interventions, failure of power supply, failure of means of transport, failure of telecommunications networks or data lines, changes in the law affecting the Services after conclusion of the contract or other unavailability of products cannot be fulfilled in a timely manner or improperly, this does not constitute a breach of contract.

## 11. Rights of Use to Software Products and Documents

11.1. Insofar as Software Products are provided to the Client 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 Agreement to use the Software Products in unchanged form.

11.2. When using software products on a network, a license is required for each concurrent user. When using software products on "stand-alone PCs", a license is required for each PC.

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

11.4. Unless a separate agreement is made, no further rights to software products are transferred to the Client. The rights of the Client according to §§ 40(d), 40(e) UrhG are not affected by this.

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

## 12. Term of the Contract

12.1. The contract shall enter into force upon signature by both parties and shall run for an indefinite period. The contract may be terminated by either party by registered letter subject to a notice period of 6 months but at the earliest at the end of the minimum term agreed in the contract.

12.2. Each party to the contract is entitled to terminate the contract prematurely and without notice for good cause by registered letter. In particular, good cause exists if the other contractual partner breaches essential obligations under the contract despite a written warning and threat of termination, or if bankruptcy or other insolvency proceedings are filed against the other contractual partner, opened or

rejected due to lack of assets, or if the other contractual partner's services are hindered or prevented for a period of more than six months as a result of force majeure.

12.3. In addition, 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 reasonably be 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 all documents and documentation provided to it by the Contractor to the Contractor.

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

### 13. Data Protection / Confidentiality

13.1. When handling personal data, the Contractor shall comply with the provisions of the Data Protection Act, the GDPR, and the Telecommunications Act and shall take the technical and organizational measures necessary for data protection in the Contractor's area of responsibility. In particular, the Contractor undertakes its employees to comply with the provisions of § 6 of the Data Protection Act.

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

### 14. Confidentiality

14.1. Each Contracting Party assures the other to treat all trade secrets brought to its attention by the other in connection with this Agreement and its execution as such and not to make them accessible to third parties, insofar as they are not generally known, or were already known to the Recipient beforehand without an obligation of secrecy, or are communicated or made available to the Recipient by a third party without an obligation of secrecy, or have been demonstrably developed independently by the recipient, or are to be disclosed on the basis of a final administrative or judicial decision.

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

### 15. Miscellaneous

15.1. The Contracting Parties shall designate in the Agreement competent and competent employees who can make or arrange for 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 poach employees employed by the Contractor to provide the services, either by itself or through third parties. The Client undertakes to pay a contractual penalty to the Contractor for each case of non-compliance in the amount of twelve times the gross monthly salary that the employee in question 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. Changes and additions to the contract must be made in writing. The same applies to the abolition of that 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 must 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 disposition of the rights or obligations arising from the Agreement requires the prior written consent of the other Contracting Party. However, the Contractor is 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. In the event of any disputes, only the territorial jurisdiction of the competent court for the Contractor's place of business shall be deemed to have been agreed. The place of jurisdiction is Vienna.

#### **CONTACT US**

In order to resolve a complaint regarding the Services or to receive further information regarding the use of the Services, please contact us at:

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