

# General Terms and Conditions Austria

of

**INFORMATICS Holding GmbH**

**Technologiering 13-17, 4060 Leonding**

Applies to:

INFORMATICS Consulting & Development GmbH,

INFORMATICS Healthcare GmbH,

INFORMATICS HR Services GmbH

Edition: 2024

well  
advised.  
in the  
world of  
**SAP.**

## 1 Scope of contract and validity

- 1.1 All orders and agreements shall only be legally binding if they are signed by the Contractor in writing and in accordance with the company name and shall only be binding to the extent specified in the order confirmation. The Client's terms and conditions of purchase are hereby excluded for the legal transaction in question and the entire business relationship. Offers are always subject to change.

## 2 Performance and testing

- 2.1 The subject of an order may be

- Development of organizational concepts
- Creation of individual programs
- Consulting and development services
- Acquisition of software usage rights
- Delivery of library (standard) programs
- Sale of merchandise

- 2.2 The consulting and development services shall be provided in accordance with the type and scope of the binding information, documents and resources provided in full by the client. This shall also include practical test data as well as test facilities to a sufficient extent, which the client shall make available in a timely manner, within the statutory normal working hours in accordance with the Working Hours Act and at its own expense. If the client is already working in live operation on the system provided for testing, the responsibility for securing the live data lies with the client.

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

- 2.4 Individually created software or program adaptations require program acceptance by the client for the respective program package concerned no later than four weeks after delivery. This shall be confirmed by the Client in a protocol. (Check for correctness and completeness on the basis of the service description accepted by the contractor using 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. If the software is used in live operation by the Client, the software shall in any case already be deemed to have been accepted.

Any defects that occur, i.e. deviations from the service description agreed in writing, must be reported by the Client to the Contractor with sufficient documentation, who shall endeavor to rectify the defects as quickly as possible. If there are significant defects reported in writing, i.e. if 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 acceptance of software due to minor 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 Should it become apparent in the course of the work that the execution of the order in accordance with the service description is actually or legally impossible, the Contractor shall be obliged to notify the Client of this within seven days. If the client does not amend the service description or create the conditions that make execution possible, the contractor may refuse execution. If the impossibility of execution is the result of a failure on the part of the client or a subsequent change to the service description by the client, the contractor is entitled to withdraw from the order. The costs incurred up to that point for the Contractor's activities, advance services and expenses as well as any set-up and dismantling costs shall be reimbursed by the Client.
- 2.7 Program carriers, documentation and service descriptions shall be sent at the expense and risk of the client. Any additional training and explanations requested by the Client shall be invoiced separately. The conclusion of separate insurance policies - of any kind whatsoever - shall only take place at the request of the client.

### **3 Prices, taxes and fees**

- 3.1 All prices are quoted in euros excluding VAT. They shall only apply to the present order. The prices quoted (in particular time charges) are ex Contractor's registered office or place of business.
- 3.2 For library (standard) programs, the list sales prices valid on the day of delivery shall apply. For all other services (organizational consulting, programming, training, conversion support, telephone consulting, etc.), the workload shall be charged at the rates valid on the day the service is provided. Deviations from a time expenditure on which the contract price is based and for which the Contractor is not responsible shall be invoiced according to the actual time incurred.
- 3.3 The costs for travel, daily and overnight allowances shall be invoiced separately to the client in accordance with the applicable rates. Travel time shall be considered working time.
- 3.4 In the case of long-term contracts with a term of more than 12 months, the prices are agreed to be stable in value, unless otherwise agreed. The consumer price index 2020 (CPI 2020) published monthly by the Austrian Central Statistical Office or an index replacing it shall serve as a measure for calculating the stability of value. The starting point for this value maintenance is the published index figure for the month in which the

contract is concluded. An index adjustment of the prices is carried out annually on January 1st of each year. The index figure for the month in which the contract was concluded is compared with the index figure for January to determine the percentage of the fee adjustment for the following twelve months. In the following contract years, this process is repeated with the current index figures, whereby the index figure from January of the previous year is then used as the basis for comparison.

## 4 Delivery date

- 4.1 Agreed deadlines for performance/completion can only be met if the Client carries out all necessary work correctly and completely by the deadlines specified by the Contractor and provides all requested documents, in particular the service descriptions accepted by it in accordance with point 2.3, and fulfills its obligation to cooperate.

Delays in delivery and cost increases caused by incorrect, incomplete or subsequently changed details and information or documents provided are not the responsibility of the Contractor and cannot lead to default on the part of the Contractor. Any resulting additional costs shall be borne by the Client.

- 4.2 In the case of orders comprising several units or programs, the Contractor shall be entitled to make partial deliveries or issue partial invoices - in each case per program or per unit.

## 5 Payment

- 5.1 Invoices issued by the Contractor, including VAT, shall be payable immediately upon receipt of the invoice without any deductions and free of charges. Partial invoices shall be subject to the terms of payment stipulated for the entire order.
- 5.2 In the case of orders comprising several units (e.g. programs and/or training courses, implementation in partial steps), the Contractor shall be entitled to issue an invoice after delivery of each individual unit or service (see clause 4.2.).
- 5.3 Compliance with the agreed payment dates is an essential condition for the performance of the delivery or fulfillment of the contract by the Contractor. Failure to comply with the agreed payments shall entitle the Contractor to suspend ongoing work and withdraw from the contract. All associated costs shall be borne by the Client. In this case, the Client also expressly waives the right to assert claims for damages or other claims of any kind, such as warranty, etc.

In the event of late payment, interest on arrears shall be charged at the usual bank rate.

- 5.4 The client is not entitled to withhold payments due to incomplete overall delivery, guarantee or warranty claims or complaints.

## 6 Copyright and use

- 6.1 The Client shall be entitled to all work results, rights of use, any industrial property rights and legal positions similar to industrial property rights arising from or in the course of the provision of the services to the greatest possible legal extent. Ownership of all written, machine-readable or other services provided and work results created by the Contractor under the individual contract shall be transferred to the Client upon full payment. The Client shall be entitled to them without further remuneration, without restriction in terms of space, time and content, irrevocably and exclusively, and may transfer them without the Contractor's consent.
- 6.2 The client is permitted to make copies for archiving and data backup purposes on condition that the software does not contain any express prohibition by the licensor or third parties and that all copyright and proprietary notices are transferred unchanged to these copies.
- 6.3 If the disclosure of the interfaces is required for the creation of interoperability of the software in question, this must be ordered from the Contractor by the Client against payment of costs. If the Contractor does not comply with this request and decompilation is carried out in accordance with the Copyright Act, the results shall be used exclusively to establish interoperability. Misuse shall result in compensation for damages.
- 6.4 If the client is provided with software whose license holder is a third party, the granting of the right of use shall be governed by 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 relevant order in writing if the agreed service is not rendered in essential parts even within a reasonable grace period of at least 30 days to be set at the same time and the Client is not at fault.
- 7.2 Force majeure, labor disputes, natural disasters, disease epidemics, flu epidemics and transport bans as well as other circumstances beyond the Contractor's control shall release the Contractor from the delivery obligation or allow the Contractor to reschedule 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, it shall be entitled to charge a cancellation fee amounting to 30% of the unbilled order value of the overall project in addition to the services rendered and costs incurred.

## 8 Warranty, maintenance, modifications

8.1 The Contractor warrants that the software fulfills the functions described in the associated documentation, provided that the software is used on the operating system described in the contract.

The prerequisite for troubleshooting is that

- the customer describes the error in detail in an error message and this is determinable and comprehensible for the contractor;
- the customer provides the contractor with all documents required for the elimination of the defect within a maximum of 14 days after request;
- the customer or a third party attributable to it has not interfered with the software;
- the software is operated under the intended operating conditions according to the documentation.
  - In the case of warranty, improvement shall in any case have priority over price reduction or rescission. In the event of a justified notice of defects, the defects shall be remedied within a reasonable period of time, whereby the Customer shall enable the Contractor to take all measures necessary for the examination and remedying of defects.

The presumption of defectiveness according to § 924 ABGB shall be deemed excluded.

8.4 Corrections and additions that prove necessary up to the handover of the agreed service due to organizational and technical programming deficiencies for which the Contractor is responsible shall be carried out by the Contractor free of charge.

8.5 Costs for assistance, misdiagnosis as well as error and fault rectification for which the Client is responsible as well as other corrections, changes and additions shall be carried out by the Contractor against payment. This shall also apply to the rectification of defects if program changes, additions or other interventions have been made by the Client itself or by a third party.

8.6 Furthermore, the Contractor shall not assume any warranty for errors, malfunctions or damage attributable to improper operation, changed 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) and transport damage.

8.7 The Contractor shall not provide any warranty for programs that are subsequently modified by the Client's own programmers or third parties.

8.8 Insofar as the subject of the order is the modification or supplementation of existing programs, the warranty shall apply to the modification or supplementation. This shall not revive the warranty for the original program.

## 9 Liability

- 9.1 The Contractor shall only be liable to the Client for damage demonstrably caused by it in the event of gross negligence. This shall also apply mutatis mutandis to damage attributable to third parties engaged by the Contractor. In the event of personal injury for which the Contractor is responsible, the Contractor shall be liable without limitation.
- Liability for indirect damages - such as loss of profit, costs associated with business interruption, loss of data or third-party claims - is expressly excluded.
  - Claims for damages shall become time-barred at the latest one year after knowledge of the damage and the damaging party.
- 9.4 If the Contractor performs the work with the assistance of third parties and warranty and/or liability claims against these third parties arise in this context, the Contractor shall assign these claims to the Client (also for collection). In this case, the Client shall be liable to this third party.
- 9.5 If data backup is expressly agreed as a service, liability for the loss of data is not excluded in deviation from point 9.2, but is limited to a maximum of 10% of the order amount per case of damage, up to a maximum of EUR 15,000.00. Warranty claims and claims for damages by the client beyond those specified in this contract - for whatever legal reason - are excluded.

## 10 Loyalty

- 10.1 The contracting parties undertake to be loyal to each other. They shall refrain from any enticement and employment, including via third parties, of employees of the other contracting party who have worked on the realization of the orders during the term of the contract and for 12 months after termination of the contract. The contracting party in breach shall be obliged to pay liquidated damages in the amount of half a gross annual salary including the employee's pro rata special payments.

## 11 Other

- 11.1 Should individual provisions of this contract be or become invalid, this shall not affect the remaining content of this contract. The contracting parties shall work together in partnership to find a provision that comes as close as possible to the invalid provisions.
- 11.2 The Contractor reserves the right to amend these General Terms and Conditions of Business for good cause arising subsequently, e.g. in the event of changes to the law or changes to supreme court rulings. The Client shall be notified of amendments to the General Terms and Conditions in writing or by e-mail at least six weeks before they come into force. The amendments shall become effective six weeks after receipt of the notification of amendment by the Client if the Client does not object in writing or by e-

mail within this period and the Contractor has informed the Client of the legal consequences and the possibilities of objection with the notification of amendment.

Amendments, supplements and other addenda to contracts, including these General Terms and Conditions, must be made in writing.

## 12 Final provisions

- 12.1 Unless otherwise agreed, the statutory provisions applicable between entrepreneurs shall apply exclusively in accordance with Austrian law to the exclusion of the UN Convention on Contracts for the International Sale of Goods.
- 12.2 The place of jurisdiction for all legal disputes between the Contractor and the Client shall be 4020 Linz, Austria.