

## General Terms & Conditions

of Solvion information management GmbH & CoKG

For all legal transactions of Solvion information management GmbH & Co KG (hereinafter referred to as "Solvion") with companies (Customer) the following

### General Terms & Conditions

shall apply, unless agreed otherwise in individual contracts and in writing.

#### 1. PROPOSAL

- 1.1 Proposals from Solvion remain subject to change.
- 1.2 All proposal and project documents may not be copied or made accessible to third parties without the prior approval of Solvion. They must be returned to Solvion immediately, if the order or the task was not placed with Solvion.

#### 2. CONTRACT CONCLUSION

- 2.1 This Contract shall be regarded as concluded if Solvion has sent the written confirmation of order or the goods delivery to the Customer on receipt of an order or has started with providing other services.
- 2.2 The details received in catalogues, brochures and the like shall only be authoritative if the order confirmation of Solvion refers to them expressly.

#### 3. SERVICES

- 3.1 If Solvion creates or modifies for the Customer software programs as part of the Contract, the Customer shall provide Solvion a comprehensive specification and all test data required in a suitable form. The specification shall become binding when Solvion agrees to it in writing. On request, Solvion shall support the Customer in the creation of the specification in return for a separate fee.
- 3.2 The Customer shall store all data handed over to Solvion at its own premises in order to ensure a restore in the event of damage or loss. Support services and provisions of the Customer shall be made free of charge as a rule.
- 3.3 The Customer undertakes to nominate to Solvion an expert employee, who must provide the information required to execute the Contract and to make or initiate decisions.
- 3.4 Inasmuch as Solvion becomes active at the premises of the Customer, it shall provide suitable equipped workstations.
- 3.5 The Customer shall not recruit itself or via third parties the employees deployed by Solvion as part of the service provision during the term of this Contract

and until the end of one year after the end of the Contract. The Customer undertakes to pay Solvion a contractual penalty in the amount of six times the gross monthly salary that the relevant employee last drew from Solvion in the event of a breach.

3.6 Solvion may also use the services of third parties for the execution of the Contract. Unless agreed otherwise, the provision of training services by Solvion shall not be included in the Contract.

3.7 Quality and/or quantity changes to the scope of services (change requests), in particular to the specification or the specifications accepted, must be agreed in writing, while the dates and remuneration must be adjusted accordingly. Unless agreed otherwise, Solvion shall provide additional services at the standard rates applicable at Solvion at the time of providing the service.

#### 4. DELIVERIES

4.1 For the delivery of goods and services, the term of delivery shall begin with the latest of the below moments in time:

- a) Date of the order confirmation;
- b) Date of fulfilling all technical, commercial and other requirements that are the obligation of the Customer;
- c) Date when a down payment or security to be made before delivery of the goods is received by Solvion.

4.2 Official and other permits of third parties shall be obtained by the Customer. If such permits are not obtained in good time, the delivery term shall be extended accordingly.

4.3 Solvion shall be entitled to carry out and bill parts and advance deliveries. If delivery is agreed on request, the goods shall be regarded as requested three months after Solvion has notified the Customer of the request at the latest.

4.4 If circumstances arise that are unforeseeable or not the responsibility of the will of the party, such as cases of force majeure, which prevent the adherence to the agreed delivery term, it shall in any event be extended by the duration of these circumstances; this

shall also include armed conflict, official interference and prohibitions, transport and customs delays, transport damage, a lack of energy and raw materials, industrial action as well as the failure of a major supplier that is difficult to replace. The above circumstances shall also authorise the extension of the delivery term if they occur with suppliers.

4.5 Usage and perils shall be transferred to the Customer on dispatch of the delivery ex works or ex warehouse and this shall be independent of the pricing agreed for the delivery (such as carriage paid, cif, etc.). This shall also apply if the delivery is carried out as part of an installation or if the transport is carried out or organised or managed by Solvion.

4.6 On provision, the place of fulfilment shall be where the service is provided. The perils for a service or an agreed partial service shall be transferred to the Customer on their provision.

4.7 If a contractual penalty for late delivery was agreed between the parties on concluding the Contract, it shall be paid under the following provision, while a deviation of it in individual points shall leave its application unaffected: a proven delay in the execution occurred at the sole fault of Solvion shall authorise the Customer to demand a contractual penalty of no more than half a percentage point for every week completed, however, in total no more than five percentage points of the value of the part of the relevant total delivery which cannot be used as a result of non-timely delivery of a key part, if the Customer incurred a loss in this amount. Any claiming of compensation in excess of this amount shall be ruled out.

## **5. PRICES AND TERMS OF PAYMENT**

5.1 The prices specified by Solvion shall apply ex works or ex warehouse of Solvion, excluding packaging, loading and value-added tax. If fees, taxes or other duties are levied, they shall be borne by the Customer. If the delivery is agreed with service delivery, it shall be invoiced separately as well as any transport insurance requested by the Customer, but shall not include the unloading and loading. The packaging shall be taken back under express agreement only.

5.2 In the event of an order that differs from the overall proposal, Solvion shall reserve the right to change the price accordingly.

5.3 The prices shall be based on the costs at the time of the first price offer. If the costs increase by the time of delivery, Solvion shall be entitled to adjust the prices accordingly.

5.4 For repair orders, the services regarded as appropriate by Solvion shall be provided and invoiced on the basis of the expenses incurred. This shall also apply for services and additional services, whose purposefulness only becomes apparent when executing the order, while this shall not require any special notification of the Customer.

5.5 The expenses for the drawing up of repair offers or for the expert report shall be invoiced to the Customer.

5.6 Solvion shall invoice the remuneration by working hours spent at the rates specified in the Contract. The invoicing shall be made monthly on a retroactive basis. If Solvion provides services at fixed rates (fixed or flat prices), Solvion shall be entitled to demand a down payment of at least 10% of the fixed price (fixed or flat price); the value-added tax shall be invoiced separately at the statutory rate.

5.7 Services outside the normal working hours (Monday to Thursday, 08.00 to 17.00, Friday, 08.00 – 13.30), on Saturdays, Sundays and national holidays as well as on generally work-free days at Solvion shall be invoiced at a surcharge of 100% the normal price.

5.8 Invoices shall become payable immediately. If the delay of the Customer exceeds 14 days, Solvion shall be entitled to suspend all services without this requiring a prior warning to the Customer and to immediately demand payment the remuneration for all services already provided regardless of any payment terms. The hourly rates agreed in the Contract shall change monthly in the same relation as the collective bargaining agreement remuneration changes for employees of companies in the area of services in automatic data processing and information technology in the control level for special activities 2.

5.9 The Customer shall not be entitled to retain or offset payments from the title of the guarantee or due to other claims that are not acknowledged by Solvion in writing or legally established. Unless agreed otherwise, the Customer shall not be entitled to use the delivery and services of Solvion before the complete payment.

5.10 Unless payment terms were agreed, one third of the price shall become due on receipt of the order confirmation, one third on half of the delivery and the rest on delivery.

5.11 If the Customer defaults on an agreed payment or other service under this or another transaction, Solvion may without affecting its other rights

a) delay the fulfilment of its own obligations until this payment or other services are fulfilled and apply an appropriate extension of the term of delivery,

b) demand payment of all open claims under this or other transactions and for these amounts charge default interest in the amount of five percentage points per year above the 3-month EURIBOR plus value-added tax as of the relevant due date, unless Solvion proves costs that exceed this amount. In any event, Solvion shall be entitled to invoice exceeding costs, in particular dunning fees and lawyer fees.

5.12 Discounts or bonuses granted shall be subject to the timely receipt of the full invoice.

5.13 Solvion shall reserve the title to all goods delivered by it until the complete payment of the invoice amounts, plus interest and costs. The Customer shall hereby transfer to Solvion to guarantee its purchase price claim its claim from a resale of goods subject to the retention of title, even if this was processed, converted or mixed and undertakes to apply a corresponding note in its books or on its invoices. On request, the Customer shall notify Solvion of the claim assigned in addition to the debtor and provide all details and documents required for its debt collection and to notify the third-party debtor of the assignment. When pledging as a security or in the event of other use, the Customer undertakes to refer to the title of Solvion and to notify Solvion immediately.

## **6. TRAVEL EXPENSES**

6.1 The journey of the relevant employee from the office of Solvion to the location of service provision shall be regarded as the trip. Travel times of employees of Solvion shall be regarded as working hours. Travel times shall be remunerated in the amount of the hourly rate agreed. As the flat rate per day/employee, the rates that are usual at Solvion shall be charged; if the actual accommodation costs exceed the flat rate, the additional amount shall be refunded by the Customer. The value added tax shall be charged separately.

6.2 In addition, the travel expenses shall also be refunded by the Customer in accordance with the actual expenses. Solvion shall decide on the election of the mode of transport. When using a car, the relevant applicable mileage flat fee shall be charged. When travelling by train, the 1<sup>st</sup> class, when travelling by airplane the economy class shall be charged. Ancillary costs, e.g. telephone, shall be charged as incurred. The travel and ancillary costs shall be refunded on submission of the copies.

## **7. ACCEPTANCE, GUARANTEE, LIABILITY**

7.1 Software programs to be created or modified by Solvion shall be accepted immediately on their

provision. If the Customer refuses the acceptance for another reason than due to a significant fault, which has a major negative effect on the use of the software program or makes such impossible, the software program shall be deemed to be accepted 4 weeks after provision, but in any event on use or passing on of the software program by the Customer. These provisions shall apply correspondingly for work, such as fine specifications or specifications, to be created by Solvion under contractual agreements. Such work shall be regarded as the exclusive basis of service provision by Solvion on acceptance by the Customer.

7.2 Faults within the meaning of the acceptance and warranty shall be reproducible deviations of the software programs from the agreed function, which already exist at the time of acceptance, if this negatively affects the use of the software programs. Faulty functions, which occur as a result of faults in the environment (hardware, operating system, software of the Customer or third parties, inputs) shall not be deemed to be faults.

7.3 The term of claiming faults (Section 933 Austrian Civil Code) shall be six months from acceptance. Faults claimed in writing within this term shall be rectified free of charge by Solvion within a suitable period. Solvion shall be given by the Customer all documents, data and information required during the fault rectification.

7.4 For a software program, which the Customer has extended via the interfaces intended, Solvion shall guarantee up to the interface. The guarantee shall, in any event, be fully ruled out if the Customer has modified goods or other services provided by Solvion without approval.

7.5 Solvion shall be liable exclusively and solely for such injuries to persons for which it is responsible as intentional or grossly negligent or for damage for which it or its vicarious agents are responsible as intentional. When losing or damaging data carrier material, the replacement obligation shall not include the expenses for procuring the data again. Solvion shall in no event be liable for indirect damage, loss of information or data, operation interruption damage, lost profit, or other consequential damage.

7.6 All costs arising in connection with the fault rectification (such as for an installation, dismantling, transport, disposal, journey and travel time) shall be borne by the Customer. For warranty work at the premises of the Customer, the necessary aids, hoisting devices, scaffolds and small materials, etc. must be provided free of charge. Replaced parts shall become the property of Solvion.

7.7 If goods are produced by Solvion on the basis of construction details, drawings, models or other specifications of the Customer, the liability of Solvion shall extend to the stated design only. When selling used goods and when accepting repair orders or in the event of changes or modifications, Solvion shall grant any warranty.

7.8 Excluded from the warranty shall be such faults that cannot be traced to, not affected by Solvion, instructions or installation, insufficient equipment, excessive use of the parts beyond the power stated by Solvion, negligent or incorrect treatment, which is down to the actions of third parties, atmospheric discharge, excess loads and chemical impacts. The warranty for parts that are subject to wear and tear shall be ruled out.

7.9 By rectifying faults, the original warranty period shall not be extended.

7.10 For compensation claims, which result from the late provision of documents or the late provision of other services of the Customer, the Customer shall be liable.

## **8. WITHDRAWAL FROM THE CONTRACT**

8.1 Requirement for the withdrawal of the Customer from the Contract shall be the late delivery, which is down to gross culpability of Solvion, as well as the unsuccessful expiry of an appropriate period of grace set by the Customer. Both the setting of a period of grace and the withdrawal must be claimed by registered mail.

8.2 Regardless of other rights, Solvion shall be entitled to withdraw from the Contract,

a) if the execution of the delivery or the start or continuation of the service is impossible or is delayed despite setting an appropriate period of grace for reasons that are the responsibility of the Customer,

b) if concerns over the solvency of the Customer have arisen and it neither makes a down payment nor provides a suitable security before delivery on request of Solvion, or

c) if the extension of the delivery term lasts a total of more than half the originally planned delivery term, but at least 6 months, for circumstances stated under Item 4.4.

8.3 The withdrawal may also be declared by Solvion regarding a still open part of the delivery or service for the above reasons (partial withdrawal).

8.4 If insolvency proceedings are opened over the assets of a party or if an order to initiate insolvency proceedings is rejected for a lack of assets, the other

party shall be entitled to withdraw from the Contract without setting a period of grace.

8.5 Without prejudice to the compensation claims of Solvion, including pre-procedural costs, in the event of a withdrawal services already provided or partial services shall be invoiced and paid in accordance with the Contract. This shall also apply if the delivery or service was not yet accepted by the Customer and for the preparation actions provided by Solvion. Solvion shall instead be granted the right to demand the return of items already delivered.

8.6 Other consequences of the withdrawal shall be ruled out.

## **9. INDUSTRIAL PROPERTY RIGHTS AND COPYRIGHT**

9.1 If a good of Solvion is created on the basis of construction information, drawings, models or other specifications of the Customer, the Customer shall hold Solvion harmless from any breach of trade mark rights.

## **10. SECRECY**

10.1 Every party shall keep secret all information, documents and data that it learns in connection with this Contract. The obligation to observe secrecy shall not apply for such documents, information and data that are the general state of the art on being handed over or later became the general state of the art without the fault of the receiving party or in respect of which the receiving party can prove that they were either (a) already belonged to its internal state of the art on being handed over or (b) later became the internal state of the art of the receiving party regardless of the meetings held with the other party or (c) were made accessible to the receiving party by third parties, e.g. under a licence agreement. The obligation to observe secrecy shall also remain in place on termination of this Contract. Solvion shall be entitled to award sub-contracts, but shall obligate its subcontractors in accordance with this Item.

## **11. JURISDICTION, APPLICABLE LAW**

11.1 The relevant court in charge in Graz-Ost shall be agreed as the exclusive jurisdiction for all disputes from or in connection with Solvion. Austrian material law shall apply in exclusion of its reference provisions and UN purchasing law.

## **12. TERM OF THE CONTRACT**

12.1 Contracts that are concluded with Solvion for an indefinite term may be terminated by either party as of a

quarter end in compliance with a 6-month notice period by registered letter.

### **13. FINAL PROVISIONS**

13.1 Ancillary agreements and contract amendments shall require written form to take effect. General terms and conditions of the Customer shall only be part of

the contract if Solvion expressly acknowledges them in writing.

13.2 If individual provisions of this Contract are or become ineffective, this shall not affect the validity of the other provisions. The parties shall in such cases endeavour to find provisions which come as close to the economic result of the invalid provision as possible.