

General Terms and Conditions for the Sale and Delivery of Software Support Services

Status: 05/2025

1. Scope and validity of the contract

- 1.1. The following terms and conditions apply to all services and deliveries performed by the contractor under this contract for the computer systems installed in Austria. The client's purchasing conditions are hereby excluded for this legal transaction and the entire business relationship. Offers are generally subject to change.

2. Scope of services

- 2.1. Unless otherwise agreed, the Contractor shall perform the contractual services at the Contractor's discretion, either at the location of the computer system or at the Contractor's business premises, during the Contractor's normal working hours. If, exceptionally and at the Client's request, services are provided outside of normal working hours, the additional costs will be invoiced separately. The Contractor shall be responsible for selecting the employee to perform the contractual services, and shall be entitled to engage third parties for this purpose.
- 2.2. The Contractor undertakes to provide the contractual software programs in accordance with the scope of services of the following contractually agreed support class:

Support Class A:

- Information service:
The client will be informed about new program versions, available updates, program developments, etc.
- Hotline service:
The contractor will be available to the client within the contractor's agreed hotline hours for advice on any problems that may arise in connection with the use of the software programs covered by the contract. In the event of repeated use of this advice for similar problems, the contractor is entitled to make further contractual advice dependent on additional, fee-based training measures outside the scope of this contract.
- Archiving and provision of the contractual software programs: The contractor undertakes to archive the software programs developed by him and which are the subject of the contract in computer-readable form as well as the documentation to the extent necessary to fulfil the obligations under this contract and, if necessary, to make these available in accordance with the Provisions of the contract underlying the purchase, available to the client.

Support class B:

- Update Service:

The Contractor shall provide the Client with the program updates provided by the manufacturer by the date specified by the Contractor. These updates include bug fixes, the resolution of any program issues that do not occur during the test run or during practical use within the warranty period, improvements to the scope of services, and changes to the software programs due to legal changes.

Legal changes that result in new program logic, i.e., changes to existing functions that result in new programs and program modules, as well as any necessary hardware upgrades, are not covered by this contract. These programs, along with the necessary data storage media and documentation, will be offered separately to the Client.

Support class C:

- Installing program updates:

The contractor is responsible for installing or installing the new program updates on the computer system covered by the contract.

- On-site troubleshooting:

If the problem resolution within the scope of services agreed upon in the contract cannot be resolved through hotline service, remote support, etc., the Contractor will carry out the resolution at the location of the computer system.

- 2.3. A defect requiring treatment exists if the software program subject to the contract exhibits behavior that deviates from the corresponding service description/documentation in its latest version, and this behavior can be reproduced by the client.

Notices of defects must be submitted to the contractor in writing. For the purpose of a detailed investigation of any errors that may occur, the client is obligated to make the computer system it uses (including the corresponding connection for systems connected online with other computers), software programs, protocols, diagnostic documents, and data available to the contractor free of charge for testing purposes during normal working hours, and to support the contractor in this process. Detected errors for which the contractor is responsible must be resolved by the contractor within a reasonable period of time.

The contractor is released from this obligation if defects within the client's sphere of influence prevent this and are not remedied by the client.

The error will be resolved through a software update or appropriate alternative solutions.

3. Services not covered by this contract

- 3.1. Unless explicitly stated otherwise in this contract, the costs for travel, accommodation, and travel time for the contractor's personnel commissioned to perform the service.
- 3.2. In the event of unauthorized use of services, the contractor is entitled to invoice the client for the incurred costs at the applicable cost rates.
- 3.3. Services that are caused by operating system or hardware changes and/or changes to mutually program-dependent software programs and interfaces that are not part of the contract.
- 3.4. Individual program adaptations or reprogramming.
- 3.5. Program changes due to changes in legal regulations if they require a change in the program logic.
- 3.6. The contractor is released from all obligations under this contract if program changes to the software programs covered by the contract are made by the client's employees or third parties without the contractor's prior consent, or if the software programs are used improperly.
- 3.7. A barrier-free implementation of the Federal Act on Equal Opportunities for Persons with Disabilities (Federal Disability Equality Act – BGStG) can be requested separately.
- 3.8. The correction of errors caused by the client or third parties.
- 3.9. Losses or damages arising directly or indirectly from actions or omissions during operation by the client or user.
- 3.10. Data conversions, data recovery and Interface adjustments.

4. Prices

- 4.1. The prices quoted are ex place of performance. The costs of program media (e.g., magnetic tapes, magnetic disks, magnetic tape cassettes, etc.), as well as documentation and any contractual fees, will be invoiced separately.
- 4.2. For services that can be performed at the contractor's business premises, but are exceptionally performed at the contractor's premises at the client's request, the client shall bear the costs for travel, accommodation, and travel time for the contractor's personnel commissioned to perform the service.
- 4.3. The contractor is entitled to increase the lump sums listed overleaf accordingly in the event of increases in labor and material costs or other costs and charges occurring after the contract has been concluded and to charge them to the client from the beginning of the month following the increase. The client shall be deemed to have accepted these increases in advance if they do not exceed 10% per year.

- 4.4. All fees and taxes (especially VAT) are calculated based on the applicable laws. Any additional taxes or duties subsequently imposed by the tax authorities will be borne by the client.

5. **Delivery dates**

- 5.1. The Contractor will endeavor to respond to the Client's inquiries within a reasonable timeframe during the Contractor's normal working hours.
- 5.2. The Client shall have no right to withdraw from the contract or to claim damages due to exceeding the promised deadlines.
- 5.3. Partial deliveries and advance deliveries are permitted.

6. **Payment**

- 6.1. The agreed lump sums for the calendar year/partial year are payable in advance by the client.
- 6.2. Invoices issued by the contractor are due 14 days after the invoice date without deduction and free of charge.
- 6.3. Compliance with the agreed payment deadlines is an essential condition for the execution of the delivery or fulfillment of the contract by the contractor. Failure to comply with the agreed payments entitles the contractor to suspend ongoing work and withdraw from the contract. All associated costs and loss of profit shall be borne by the client. In the event of late payment, default interest will be charged at the usual bank rate. In the event of non-compliance with two installments of partial payments, the contractor is entitled to declare the deadline overdue and to demand payment of any accepted invoices.
- 6.4. The client is not entitled to withhold payments due to incomplete delivery, guarantee or warranty claims, or complaints.

7. **Contract duration**

- 7.1. The contractual relationship, which requires professional installation of the duly purchased software program, begins upon signing the contract and is concluded for an indefinite period. This contract may be terminated in writing by either party subject to three months' notice to the end of a calendar year, but no earlier than after the 36th month of the contract. If the software program is demonstrably decommissioned or lost, the contractual relationship may be terminated prematurely subject to three months' notice. In this case, the pro rata portion of the annual fee for the unused service will be transferred to an Austrian bank account specified by the client.

8. Performance disorders

- 8.1. The Contractor undertakes to provide the services in accordance with the contract. If the Contractor fails to provide the services at the scheduled time or only provides them defectively, i.e., with significant deviations from the agreed quality standards, the Contractor is obligated to begin rectifying the defects immediately and to provide its services properly and without defects within a reasonable period of time by repeating the affected services or carrying out any necessary remedial work, at its discretion.
- 8.2. If the defect is due to the Client's supplies or cooperation or to a breach of the Client's obligations pursuant to Section 3.9, any obligation to rectify 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 any possible restrictions. At the client's request, the contractor will remedy the defect at the client's expense.
- 8.3. The client will support the contractor in remedying the defect and provide all necessary information. Any defects that arise must be reported to the contractor immediately in writing or by email. The client will bear any additional costs incurred in rectifying the defect due to a late notification.
- 8.4. The warranty period is 6 months. However, complaints about defects are only valid if they concern reproducible defects and if they are documented in writing within 4 weeks of delivery of the agreed service. In the case of a warranty, improvement always takes precedence over price reduction or replacement. In the event of a justified complaint, the defects will be remedied within a reasonable period of time, with the client allowing the contractor to take all necessary measures to investigate and remedy the defects. The reversal of the burden of proof, i.e., the contractor's obligation to prove his innocence regarding the defect, is excluded.

9. Liability

- 9.1. The contractor is liable to the client for damages demonstrably caused by him only in the event of gross negligence. This also applies mutatis mutandis to damages attributable to third parties engaged by the contractor. In the event of personal injury caused by negligence, the contractor is liable without limitation.
- 9.2. Liability for indirect damages - such as lost profits, costs associated with business interruption, data loss, or third-party claims - is expressly excluded.
- 9.3. Claims for damages expire in accordance with statutory provisions, but no later than one year after knowledge of the damage and the person causing the damage.
- 9.4. If the Contractor performs the work with the assistance 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 will primarily hold these third parties liable.

- 9.5. To the extent and as long as obligations cannot be fulfilled on time or properly due to force majeure, such as war, terrorism, natural disasters, fire, strikes, lockouts, embargoes, sovereign interventions, power failures, 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, this shall not constitute a breach of contract.

10. Location

- 10.1. The location of the computer systems subject to the contract is contractually In the event of a relocation of the computer systems, the contractor is entitled to redefine the flat-rate cost or terminate the contract prematurely.

11. Copyright and use

- 11.1. All copyrights to the agreed services (programs, Documentation, etc.) are owned by the contractor or its licensors. After payment of the agreed fee, the client is granted the exclusive right to use the software exclusively for its own purposes, only for the hardware specified in the contract, and for simultaneous use on multiple workstations within the scope of the number of licenses purchased. This contract merely grants a license to use the work. Distribution by the client is excluded under copyright law. The client's participation in the production of the software does not acquire any rights beyond the use specified in this contract. Any infringement of the contractor's copyrights will result in claims for damages, and in such a case, full compensation must be paid.
- 11.2. The making of copies for archiving and data backup purposes is Client is permitted to do so on the 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.
- 11.3. If the interoperability of the software in question If disclosure of the interfaces is required, the client must request this from the contractor, at the contractor's expense. If the contractor fails to comply with this requirement and decompilation is carried out in accordance with copyright law, the results may only be used to achieve interoperability. Misuse will result in compensation.

12. Loyalty

- 12.1. The contracting parties undertake to be loyal to each other. They will refrain from any poaching or employment, including through third parties, of employees of the other contracting party who have worked on the implementation of the orders during the term of the contract and for 12 months after termination of the contract. The contracting party violating this clause is obligated to pay lump-sum damages in the amount of the employee's annual salary.

13. Confidentiality

- 13.1. The contractor obliges its employees to comply with the provisions of Section 6 of the Data Protection Act.

14. Miscellaneous

- 14.1. Should individual provisions of this contract be invalid or should any provision become invalid, the remaining content of this contract shall remain unaffected. The contracting parties shall cooperate in a spirit of partnership to find a solution that comes as close as possible to the invalid provisions.

15. Final provisions

- 15.1. Unless otherwise agreed, the terms and conditions of business between entrepreneurs The applicable statutory provisions shall be governed exclusively by Austrian law, even if the contract is carried out abroad. Any disputes shall be subject to the exclusive jurisdiction of the competent court for the contractor's place of business. 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 stipulate other mandatory provisions. Failure to comply with essential contractual components entitles the contracting parties to premature termination of the contract without notice.
- 15.2. Amendments and additions to the contract must be made in writing.
This also applies to the waiver of this formal requirement.
- 15.3. Should one or more provisions of the contract be wholly or partially should any provision be or become invalid or unenforceable, the validity of the remaining provisions shall not be affected. The invalid or unenforceable provision shall be replaced by a valid provision that comes closest to the economic purpose of the invalid or unenforceable provision.
- 15.4. Any disposal of the rights arising from the contract or Obligations require 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, even without the Client's consent.
- 15.5. The contractor is entitled to fulfill his obligations to serve third parties in whole or in part.

16. Business mediation

- 16.1. In the event of disputes arising from this contract which cannot be resolved amicably if the dispute cannot be resolved, the parties agree to engage registered mediators (ZivMediatG) specializing in commercial mediation from the list of the Ministry of Justice for an out-of-court settlement of the dispute. If no agreement can be reached regarding the selection of commercial mediators or the content of the dispute, legal action will be initiated no earlier than one month after the negotiations fail. In the event of a mediation that fails or is terminated, Austrian law will apply to any legal proceedings that may be initiated. All necessary expenses incurred as a result of a prior mediation, in particular those for a retained legal advisor, can be claimed as "pre-trial costs" in court or arbitration proceedings, as agreed.