



GENERAL TERMS AND CONDITIONS
FOR AWITE SERVICES

GENERAL CONDITIONS OF SALE
AND DELIVERY



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General Information

Any service or product service – also in current and future business relationships – is subject to the conditions below. Deviations, side-agreements and assurances of any kind require written confirmation. Any (purchasing or similar) conditions of the customer do not become part of the contract, even if we do not expressly contradict them.

§ 1

Subject Matter of the Contract

We carry out all (e.g. project planning, software development) work taking into account the individual situation and needs of the customer. The subject matter of the contract is the agreed activity and – unless otherwise agreed – not the achievement of a certain economic success or the preparation of expert reports or other works. Unless otherwise agreed, we can use expert subcontractors to carry out the order, while always remaining directly responsible to the customer. In the course of our activities, we will employ properly trained employees with the necessary specialist knowledge. Furthermore, we decide at our own discretion which employees we employ or exchange.

§ 2

Scope of services, order changes

We are obliged to take the customer's requests for changes into account, provided this is reasonable for us within the scope of our operational capacities, in particular with regard to the effort and to time planning. Insofar as the examination of the change options or the implementation of the desired changes have an impact on the contractual conditions, in particular on our work or the time planning, the parties agree on an appropriate adjustment of the contractual conditions, in particular increasing the remuneration and postponing deadlines.

Unless otherwise agreed, we carry out the work until the contract is adjusted without taking the change requests into account in this case. If an extensive examination of the additional work is necessary, we can request a separate order for this.

§ 3

Confidentiality, data protection, copyrights

We are obliged without any time limitation to maintain confidentiality about all information or business and trade secrets of the customer which are designated as confidential and become known to us in connection with the order. Disclosure to third parties not involved in the execution of the order may only take place with the written consent of the customer. We undertake to oblige all the people we use to carry out the order to comply with confidentiality. We are authorized to process the personal data entrusted to us or to have them processed by third parties within the scope of the purpose of the order in accordance with the data protection regulations.

General Terms and Conditions for Awite Services

We grant the customer the unlimited (in time and space) and irrevocable right of use to all work results created for the customer within the scope of our work, for any use within the customer's company. The customer will reimburse us the costs of all employee inventor allowances that we have to pay to inventors employed by us for rights to inventions to be transferred to the customer.

§ 4

Remuneration, Terms of Payment, Offsetting

The remuneration for our work is calculated according to the times spent on the work (time fee) or agreed in writing as a fixed price. Unless otherwise agreed, we are entitled to reimbursement of expenses in addition to the remuneration. All claims are due upon invoicing and are payable immediately without any deductions. The statutory value added tax is to be added to all prices and to be shown separately in the invoice. Offsetting against claims by us for remuneration and reimbursement of expenses is only permitted with undisputed or legally established claims.

§ 5

Cooperation Obligations of the Customer

The order placement and execution is based on correct and complete information by the customer. The customer is obliged to support us to the best of his ability and to create all the conditions necessary for the orderly execution of the order in his business sphere; in particular, he must provide us with all the information and documents necessary or significant for the execution of the order in good time. At our request, the customer must confirm in writing the accuracy and completeness of his information, oral explanations, as well as documents submitted to us.

If the customer is in arrears with the acceptance of our services or if he fails to cooperate in spite of a reminder and the setting of a deadline, we are entitled to terminate the contract without notice. Regardless of the assertion of this right of termination, we are entitled to compensation for the damage or additional expenses incurred as a result of the delay or failure to cooperate.

§ 6

Remedy of Defects

As far as our services can be improved, we will remedy any defects for which we are responsible, insofar as this is possible for us with reasonable effort. The customer must immediately notify us of any defects in writing, but at the latest within twelve months after the service has been provided. If the remedy fails, the customer can also request a reduction in the remuneration or cancellation of the contract if the service rendered is of no interest to him due to the failure of the rectification. For further claims for damages, point 7 "Liability" applies.

§ 7

Liability

We are liable to the customer, irrespective of the legal reason, for the damage caused by us or our assistants or vicarious agents intentionally or through gross negligence. Liability for slight negligence only obtains if essential contractual obligations are violated. In this case, liability for damages untypical for the contract is excluded. We will perform all services to the best of our knowledge and belief. However, we can not guarantee a specific success result. Unless we are guilty of intent or gross negligence, our liability for damage from any incorrect advice is limited to the amount of the agreed remuneration; if this is not legally possible, to the maximum amount of € 20,000 per individual damage event.

Except in the case of intent and gross negligence, we are not liable for indirect and consequential damage (e.g. business interruption, lost profit, loss of production). Claims for damages by the customer against us become statute-barred twelve months after completion of the order.

We are only liable for the retrieval of data insofar as we caused the data loss intentionally or through gross negligence and the customer, except in the case of intent, has ensured through daily data backup that the machine-readable data can be restored with reasonable effort.

§ 8

Impediments to Performance

Force majeure events and other events for which the party is not responsible which make the service significantly more difficult or temporarily impossible entitle the respective party to postpone the performance of the service for the duration of the impediment and a reasonable start-up time. Industrial action and similar circumstances are equivalent to force majeure insofar as they are unpredictable, serious and occur through no fault of one's own. The parties shall inform each other immediately of the occurrence of such circumstances.

§ 9

Place of Jurisdiction, Choice of Law, Place of Performance

If the customer is a general merchant, the court at the registered office of our company (Langenbach/Bavaria) is solely responsible for all contractual and non-contractual disputes arising from or in connection with the respective contract. However, we are entitled to file a lawsuit in individual cases at the customer's place of business. The service contract law of the Federal Republic of Germany applies to all rights from the contract, unless a service contract or other right has been agreed in individual cases.

Unless otherwise stated in the order confirmation, our registered office is the place of performance.

If the customer is not a general merchant, § 38 paragraph 2 ZPO [Code of Civil Procedure] applies.

§ 10

Final Provisions

Rights from the contractual relationship with us may only be assigned with prior written consent.

If provisions of this contract are or become ineffective in whole or in part, the remaining provisions are not affected by this. The parties undertake to immediately replace the ineffective provisions with effective ones. Changes or additions to the contract concluded with us must be in writing to be effective. This written form clause cannot be tacitly waived.