

GENERAL TERMS AND CONDITIONS

Version from December 14, 2018

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1. Subject Matter of the Agreement

These General Terms and Conditions ("GTC") constitute an integrated part of all contractual agreements ("the Agreement") between itnetX (Switzerland) AG ("Provider") and the client ("Client") and regulate in specific terms their general rights and obligations in relation to the provision of services agreed on.

Written arrangements to the contrary take precedence over the provisions of these GTC.

2. The Provider's services

2.1 General duty of care

The Provider undertakes in every case to carry out the tasks assigned to it professionally, loyally and with due care, subject to compliance with any instructions given by the Client, the Client's internal regulations, and standards and practices customary in the industry.

In relation to the tasks assigned to it, the Provider does however not warrant or guarantee that a specific target or any technical or other effect or achievement of whatever nature will be achieved, apart from characteristics warranted in writing and the items to be supplied as agreed in writing. The Client alone bears the economic risk related to any services provided by the Provider.

2.2 Employees used

The Provider undertakes only to use carefully selected employees who have the required specialist knowledge and qualifications. In addition, it shall endeavour to ensure continuity in the employees used as far as possible.

The Provider is responsible for meeting all claims of its employees arising from the employment relationship. It shall ensure the required insurance cover and pay their social insurance contributions. It shall also ensure that the employees have the required work permits.

The Provider is aware of any criminal record that its employees may have. The Client may require in writing that the Provider must only use employees who have no criminal record. In addition, it may require that the Provider present an extract from the register of criminal records in respect of all employees. The Client reserves the right to impose other requirements.

2.3 Sub-contractors and use of third parties

The Provider may make use of sub-contractors and third parties to carry out the contractual duties subject to notifying the Client thereof well in advance. The Client may at any time request in writing that such a sub-contractors or third party be replaced if there is justified cause for doing so.

The Provider is obliged to have sub-contractors or third parties used (or their employees) contractually bound in writing to comply with obligations, in particular duties of care and of con-

fidentiality, and to demand the transfer of any intellectual property rights that are created in carrying out the contractual duties.

If the Provider expressly undertakes to act on behalf of the Client as a general contractor, it shall be liable for the sub-contractors and third parties it employs in the same manner as it is liable for itself. In all other cases, it shall be liable only for their selection, briefing and supervision. If however the Client requests a specific sub-contractor or third party, the Client bears the related risk in every case.

2.4 Place and time of provision of services

The respective head offices of the parties are deemed to be the place of contractual performance, unless otherwise agreed in writing. The working hours for the provision of services shall be determined by the Client after consulting the Provider. Unless otherwise agreed in writing, the working hours are Monday to Friday, 08:00 to 17:00, other than on official public holidays at the place of performance of the service concerned.

Where the services are being provided or work done on the Client's premises, the Provider's employees shall abide by the Client's internal rules and regulations. Devices, data carriers or commercial documents may only be removed from the Client's premises after consulting the Client's manager responsible and with his or her express consent.

2.5 Duty to provide information and documentation

The Provider shall inform the Client of all operations and modifications to be carried out on its computer systems in the course of providing services. It shall agree the date and time frame with the Client and inform it in an appropriate manner about:

- the form of services to be provided,
- the date and estimated duration of the provision of services,
- possible risks and consequences to the running of the software system, and
- any fall-back scenarios.

The Client shall examine the details and confirm in an appropriate manner whether it agrees to these operations or modifications on its computer systems. Unless the Client's confirmation has been given, the services shall continue in accordance with the existing contractual agreements. The Client's confirmation does not constitute a duty to cooperate on the Client's part on which the further provision of services by the Provider depends.

The Provider shall carefully document the services provided and work results achieved and provide the Client with a report every month and on request on the status of the work. It shall notify the Client immediately in writing if it learns of any circumstances that jeopardise the completion of the works in a proper manner or on schedule or that will lead to any agreed cost limit being exceeded.

2.6 Protection and storage of data

The Provider shall comply without restriction with the provisions and requirements of the Swiss Data Protection Act (Federal Data Protection Act, DPA, SR 235.1).

Data may only be stored on the Provider's computer systems with the Client's consent. The Client acknowledges in this connection that data entrusted to the Provider may be stored on physical servers belonging to a third party, that has been contractually bound by the Provider to comply with the Swiss Data Protection Act. The third party server concerned may be located outside Switzerland.

The Provider may not use the data that Client entrusts to it for its own commercial and industrial purposes nor shall it make such data available to third parties without the Client's consent. The data entrusted to it may only be made accessible to employees and sub-contractors or third parties that it uses with the Client's prior consent and only as required. In addition, the Provider shall protect the data entrusted to it against unauthorised access, data corruption and data loss, taking account of the security standards customary in the industry or any other security standards agreed in writing.

2.7 Software products used by the Provider

Unless otherwise agreed in writing, the Provider makes its own decision on the software products it uses to carry out the works assigned provided such products are not or are only briefly installed or used on the Client's computer systems.

If the Provider uses software products that are not already installed on the Client's computer systems or that are made available by the Client in any other way, the Provider shall ensure that it has licence rights required to use such software products.

3. The Client's responsibilities and obligations

3.1 Provision of resources and employees

The Client shall provide the Provider in good time with all the logical and physical accesses to its computer systems that are required for the provision of services.

The Client shall designate a suitably qualified employee (the "technical contact person") with whom all the technical details may be discussed, including any interruption in operations or changes to the agreed content of services.

The Client shall designate a suitably qualified employee (the "management contact person") to be responsible for supervising the contractual relationship and with whom management matters may be discussed.

The Provider and the Client shall draw up a list of contact persons. The Client shall notify the Provider immediately of any changes in staff and designate a new contact person. The Provider shall then provide the Client with an updated list of contacts.

The Client shall provide the Provider for services carried out at the Client's premises or those of third parties at least the same work areas, hard and software products, facilities and services as its own employees are given to carry out similar work.

3.2 Software products for the Client's computer systems

Unless otherwise agreed in writing, the Client shall for its own account and at its own risk purchase the software products permanently required by the Provider for the provision of services on the Client's computer systems, together with the required licences and licence renewals.

Unless otherwise agreed in writing, the Provider shall assume in good faith that in order to provide the agreed service, it is entitled to use, in accordance with the relevant provisions, the software products already installed on the Client's computer systems and other software products provided by the Client.

3.3 Lawful use of infrastructure

The Client shall comply with the relevant statutory provisions when using the Provider's services. The processing of illegal information (such as representations of acts of violence, pornography, discrimination, incitements to violence or to commit offences, gambling, violation of copyrights, trademark rights and other intellectual property rights, breaches of privacy, etc.) via the Provider's infrastructure or infrastructures for which the Provider is responsible, as well as their abuse (e.g. for the harassment of third parties, violations against the unfair competition law, etc.) are prohibited. The Client shall at the first request reimburse the Provider for any costs and expenditures in connection with corresponding claims.

3.4 Transmission of personal data

The Client shall notify the Provider in writing if it transmits personal data as defined by the Federal Data Protection Act (DPA, SR 235.1) to the Provider.

Insofar as the Client transmits personal data as defined by the Federal Data Protection Act (DPA, SR 235.1) to the Provider for storage, processing or other use, the Client warrants that it has obtained the required authorisations and consents therefor and shall provide proof of this to the Provider at the first request.

The Client shall at the first request reimburse the Provider for any costs and expenditures in connection with claims relating to the unlawful storage, processing or other use of personal data as defined by the Federal Data Protection Act (DPA, SR 235.1).

3.5 Security responsibilities

The Client is responsible for the operation and the security of all elements of its computer systems for which the Provider has not expressly accepted responsibility in writing. The Client shall implement suitable security measures in organisational and technical terms, in particular in connection with the allocation of access passwords, data transmission, malware and other se-

curity-relevant aspects. In addition, the Client shall have appropriate data security policies and shall also execute the same regularly.

3.6 Data storage during the provision of services

In order to prevent any data losses, the Client shall make a backup of its entire data and computer systems immediately before the Provider starts to provide its services and thereafter at least every day. Unless advised to the contrary in writing, the Provider may assume that any data or information lost while its services are being provided may be recovered from the Client's backup.

3.7 Duty to provide information and documentation

The Client shall provide the Provider with all the information required for the provision of services, accurately, in full and in good time. The Client shall in particular also notify the Provider immediately of any unlawful or non-contractual uses, defects or faults in relation to the services provided by the Provider or the computer systems that it is maintaining.

The Client shall in particular also document any exceptional circumstances or error messages in its computer systems and make this information available to the Provider in an appropriate manner, insofar as this is required or helpful for the provision of services by the Provider.

4. Acceptance procedure for the Provider's services

4.1 Notice of readiness for acceptance

On completion of the contractually agreed service, the Provider shall conduct an internal quality test and document the same in an appropriate manner. Thereafter it shall give notice to the Client that the contractually agreed service is ready for acceptance. In the case of supplies of hardware, their postal delivery to the Client replaces the notice of readiness for acceptance.

For separable parts of services that may be used independently in economic terms, part-acceptances may be agreed, whereby the entire service is regarded as accepted with the last part-acceptance ("final acceptance"). Part-acceptances that have already been given remain unaffected by the outcome of the final acceptance.

4.2 Period for testing and filing complaints

The Client shall have a period of 20 days from receiving notice of readiness for acceptance or from postal delivery within which to test the services or partial services provided for defects and then accept them or to file a complaint. A complaint must be filed in writing in respect of noticeable defects within this period, otherwise the defect is deemed to be accepted. A complaint must be filed in writing in respect of latent defects within 20 days of their discovery.

4.3 Procedure for acceptance

The Client is responsible for conducting the acceptance procedure. The Client shall draw up a suitable acceptance plan in consultation with the Provider, which includes any acceptance tests that must be carried out, the parties' employees who are responsible, the date for acceptance and the content of the acceptance report. Any defects discovered during the acceptance procedure must be classified according to the following categories:

Defect class	Description
Class 1 (Fatal defects)	Critical faults that lead to the absence of essential performance characteristics. At least one essential system component is not available. <u>Consequences:</u> The system does not work; essential functions are absent; false processing of essential inputs; data are corrupted or lost.
Class 2 (Serious defects)	Faults that lead to the absence of performance characteristics. At least one system component is not available. <u>Consequences:</u> The system is defective and operation is disrupted; functions are absent or do not meet specifications.
Class 3 (Minor defects)	Variances from specification that do not impair the performance characteristics (e.g. inconveniences or variances from design parameters). <u>Consequences:</u> The system runs without operations being disrupted; all functions are available according to specification.
Class 4 (Cosmetic defects)	Any potential for optimisation that is noted, modification wishes, minor criticisms of work results, errors in documentation, etc. <u>Consequences:</u> The system runs without operations being disrupted; there are no variances from specification.

4.4 Acceptance report

The acceptance procedure must be documented in an appropriate manner. If defects are discovered, the following points must be included in a written acceptance report:

- results of the acceptance tests (pass; partial pass; fail);
- an open issues list with the defects that have been discovered (classified according to Clause 4.3) as well as the domain specifically affected by the defect;
- description of the test that led to the defect being discovered;
- any differences of opinion between the parties;

If the Provider takes part in the acceptance procedure at the request of the Client, it shall draw up the acceptance report, which shall be signed by both parties immediately following acceptance.

4.5 Requirements for acceptance

The Provider's services or partial services are deemed to be accepted if the following requirements are met cumulatively:

- no defects in defect classes 1 or 2 (according to the definition in Clause 4.3);
- acceptance tests passed according to the acceptance plan (e.g. unit test, component test, system test, system integration test, user acceptance test, performance test, etc.);
- the warranted characteristics and the agreed deliverables are present;
- the documentation is available and to the extent and in the quality agreed.

Defects discovered during the acceptance procedure must be entered on the open issues list in the acceptance report. The Provider is obliged to rectify recognised defects within the defined period free of charge. Defects are deemed to be rectified if they no longer occur as "reproducible errors" under identical circumstances or no longer occur as "non-reproducible errors" in three processing runs. The Client shall verify the rectification of defects independently.

4.6 Action in the event of a failed acceptance procedure

If the acceptance test fails, the Client shall give the Provider written notice that it has an appropriate additional period of at least 20 calendar days to rectify the services concerned free of charge. When the Provider again declares that it is ready for acceptance, a second acceptance procedure shall take place. If this acceptance test fails as well, the Provider shall allow a final period of 30 days in order to carry out further corrections free of charge.

If the acceptance test fails a third time, the Client may either (1) continue to demand performance and allow a further appropriate period, (2) demand a reduction in the price based on the difference in value of the service concerned or (3) if the result achieved is unusable, withdraw from the individual agreement concerned and demand the refund of payments already made, subject to the exclusion of any further claims.

5. Costs and conditions

5.1 Prices and payment conditions

The remuneration for the Provider's contractually agreed services shall be individually defined in the Agreement or its annexes. All costs are shown in Swiss francs excluding VAT, which is itemised separately on each invoice. All other taxes and duties that are charged on the Agreement being concluded or fulfilled shall be borne by the Client. In addition, the following payment terms apply:

- **flat-rate charges** are billed on the agreed dates;
- **regular charges** are billed every month;
- **work on a time and material basis** is billed on a monthly basis. The bills shall indicate the individual employees, the work carried out and the time taken (to the nearest 15 minutes).

5.2 Surcharges for work outside of business hours

The billable hours are calculated based on the actual time incurred, which may vary according to the type of performance, and multiplied by the following factors:

Type of performance	Factor
During business hours	x 1.00
Outside of business hours (excl. 22:00-07:00 and Sundays)	x 1.50
Nights (22:00-07:00) and Sundays	x 2.00

5.3 Expenses and travelling time

Unless otherwise agreed in writing, proven expenses and incidental costs (travel, hotel accommodation, data carriers, copies, postage, etc.) shall be billed to the Client in addition to the agreed remuneration. Furthermore, unless otherwise agreed, the time spent travelling to the Client's premises in order to provide services there counts as working time and is also charged as work on a time and material basis.

5.4 Appointments and postponement of appointments

The parties shall agree any deadlines and appointments in the individual agreement concerned or if need be by mutual agreement in the course of contractual performance. Unless expressly agreed otherwise, non-compliance with any agreed deadlines or appointments establishes default without further formalities.

Agreed deadlines and appointments are therefore mandatory and must be complied with. If the Client must postpone a deadline or an appointment for reasons not attributable to the Provider, the Provider shall attempt to use the resources it has made available for another purpose. If this is not possible, the Provider may bill the Client for the resources concerned in addition to the agreed remuneration.

5.5 Changes to prices

With the exception of the agreed fixed prices and guaranteed cost ceilings, the Provider may at any time change the prices, regular charges and hourly rates agreed in any individual agreement, subject to compliance with a 6 month period of notice.

If the Provider gives notice of an increase in price, the Client may terminate the individual agreement concerned within 2 months of receiving notice of the change in price, subject to 3 months' written notice.

5.6 Due date and consequences of default

The Provider's invoices are due for payment net within 20 days of the invoice date. If payment is not made within this period, the Client shall be held to be in default without further formalities and the Provider may stop providing its services until the invoice is paid. The Provider shall give written notice of any imminent stoppage of service, allowing an additional period of 5 working days for payment.

6. Confidentiality

6.1 Extent of the duty of confidentiality

The parties undertake to preserve the secrecy of confidential information. Confidential information is deemed to be all facts and data connected with the contractual relationship that are neither obvious nor generally accessible and which come to the knowledge of parties in the course of their contractual cooperation. In the event of any doubt, information and data must be treated as confidential. The duty of confidentiality also covers in particular confidential information exchanged during the contractual negotiations. The duty of confidentiality continues to apply for 5 years after termination of the contractual obligation concerned.

If the Client also requests the signature of a confidentiality agreement, this shall be valid in addition to Chapter 6 of these GTC, unless the confidentiality agreement infringes Swiss substantive law.

6.2 Confidentiality and restriction on use

The parties undertake not to pass on any form of confidential information to third parties whether directly or indirectly or allow them access to such information. They shall comply with the customary standards in the industry in order to prevent unauthorised persons from accessing confidential information.

Confidential information may only be used to carry out the contractual duties. However, each party may continue to use knowledge and skills in their usual business activities that they have acquired in the course of the provision of the services.

These obligations must be imposed on all employees and any sub-contractors or third parties that are used to carry out the contractual duties.

6.3 Return of confidential information

Subject to the statutory duties of retention and documentation, confidential information must be destroyed or permanently deleted following performance of the contractual duties. On request, written confirmation of its destruction or deletion must be given within 14 days. The duty to delete does not apply to confidential information saved on backups made by the parties, provided the backups are made solely for the purpose of the recovery of data.

6.4 Exceptions to the duty of confidentiality

The obligations defined in Chapter 6 of these GTC do not apply to information that:

- was in the public domain or known to the receiving party prior to its disclosure (or after its disclosure, if the receiving party played no part in such disclosure);
- was deduced by the receiving party without being given access to the relevant confidential information;
- was made accessible to the receiving party without any infringement of this Agreement;

- must be disclosed in terms of an act, ordinance or court order.

7. Warranty

7.1 Warranty against legal defects

The Provider warrants to the Client that the work results that it provides or their intended use does not infringe the rights of any third parties.

The Client shall notify the Provider immediately of any related claims and the Provider shall accept responsibility for conducting any court proceedings or for settling the same out-of-court. The Provider shall update the Client on the progress of negotiations and seek its advice on important decisions. In such circumstances, the Provider shall relieve the Client of any obligation to pay costs or damages.

If the provision of the contractual service is held in a court judgment or in the Provider's estimation to infringe third party intellectual property rights, the Provider has the right to decide whether:

- it makes changes to the contractual service at its own expense in order to remedy the infringement of intellectual property rights;
- it acquires the required rights of use from the holder of the intellectual property rights at its own expense; or
- it provides compensation for the infringement of intellectual property rights by refunding the remuneration paid (under deduction of appropriate depreciation during the period of use).

7.2 Warranty against material defects

The Provider warrants that the work results will be achieved in good time with the specifications agreed with the Client. The Provider also warrants in particular the availability of its services in accordance with service levels that may be agreed in relation to the specific services.

The Provider further warrants that, unless agreed to the contrary, the work result will not contain any components with open source software. Open source software means software that may be processed with unrestricted access to the source code, with the recipient being required to guarantee that any software developed therefrom (including the source code) will be distributed under similar licence conditions.

The Provider provides no warranty that any service it provides or work result it achieves can be used without interruption and free of defect in any desired combination or with any available data, infrastructure or software, nor that the correction of a software error will prevent other errors from arising. The Provider shall however provide all the services appropriate in the circumstances in order to maintain or restore operational efficiency.

The Provider further provides no warranty for errors or defects in software products supplied by third-party manufacturers

(such as Microsoft) or which the Provider uses as work equipment (e.g. third-party tools, add-ons and extensions to existing systems etc.). The Provider shall however endeavour while fulfilling its contractual duties to supply the Client with the latest patches, upgrades and updates.

7.3 Time limit for warranty claims

The right to file claims based on the warranties against legal and material defects expires at the latest 24 months after notice of readiness for acceptance is given in accordance with Clause 4.1 of these GTC.

8. Liability

8.1 Direct loss or damage

Provided it is proven to be at fault, the Provider shall be liable for any direct loss or damage not exceeding the amount that the Client paid for the Provider's services in the 12 months before the damaging event, or CHF 250,000.00, whichever is the lower.

The Provider shall not be liable if it was prevented from carrying out its contractual duties on time or in the proper manner because of circumstances for which it was not responsible. In such an event, the agreed deadlines shall be extended accordingly.

8.2 Indirect loss or damage

To the extent permitted by law, the Provider excludes all liability for any indirect loss or damage and consequential loss or damage caused by defects (such as loss of profits, operating losses, savings not achieved, loss of data, data recovery costs, legal costs, etc.).

8.3 Product Liability Act

The Provider shall only be held liable for loss or damage that is governed by the Product Liability Act in accordance with the mandatory statutory provisions.

9. Intellectual property rights relating to work results

9.1 Allocation of intellectual property rights

The Provider is entitled to all rights to any intellectual property (copyrights, designs, inventions, know-how, etc.) created by the Provider, its employees, its sub-contractors or third parties used in order to carry out the contractual duties, irrespective of their legal protectability. The Provider may in particular use the intellectual property rights created in the course of carrying out the contractual duties in other projects or market them as an element in software products.

9.2 Granting of licences

Intellectual property rights and documents created in the course of the fulfilment of the contractual duties by the Provider, its employees, its sub-contractors or third parties used (e.g. concepts, solution documentation, process definitions,

process control systems, parameterisations, adaptations and extensions to software, source code and scripts) may be used, adapted or otherwise applied in accordance with the relevant provisions by the Client and its affiliated companies anywhere in the world and at any time, including subsequent to the termination of the contractual relationship with no additional cost due to the Provider, provided no licence provisions of manufacturers of software products that may apply are infringed thereby.

The Client however acknowledges that in the absence of an express written agreement to the contrary in relation to the Provider's agreed services, there is no right to exclusivity. The Provider may without further formalities provide identical or similar services to third parties as well.

10. Sale of hardware products

In the event of any sale of hardware products between the parties, the provisions of this Clause 10 take precedence over the other provisions of these GTC.

10.1 Ordering process

Before any sale of hardware products, the Provider shall send the Client a separate order form showing the number, price, delivery address (in Switzerland), down payment, applicable warranty terms and the expected delivery date.

In the absence of any written agreement to the contrary, customs, shipping and handling costs shall in each case be billed separately according to the expenditure actually incurred. In the absence of any written agreement to the contrary, the installation of the hardware products is not included in the sale price.

The Client shall check the order form, sign it and send it back to the Provider within 10 days. By its signature, the Client undertakes irrevocably to accept and pay for the hardware products ordered.

The Provider will then place the order and immediately send the Client an order confirmation. The Provider is only obliged to deliver the hardware products ordered after sending the order confirmation.

10.2 Delivery dates

The Provider shall endeavour to meet the Client's delivery requirements. Delivery depends on the Provider having the products in stock, with the result that the delivery times and dates specified are non-binding and do not constitute a fixed due date.

In the event of delays of more than 60 days beyond the non-binding delivery date specified in the order confirmation, the Client may withdraw from the purchase contract in respect of the hardware product concerned, subject to the exclusion of any other claims against the Provider.

10.3 Delivery and passing of risk

The Provider shall deliver the hardware products to the address on the order confirmation or, in the absence of an address, to the address of the Client's company head office. The risks of damage or loss pass to the Client at the time of delivery or on the first attempt at delivery to the destination address.

10.4 Acceptance and period allowed for complaints

If a hardware product is not installed by the Provider, it is deemed to have been accepted by the Client if no written complaint is made in respect of noticeable defects within 10 days of delivery. If a hardware product is installed by the Provider, it is deemed to have been accepted by the Client if no written complaint is made in respect of noticeable defects within 10 days of installation by the Provider. Complaints relating to latent defects must be made in writing within 20 days of their discovery, or otherwise are deemed to be accepted.

10.5 Guarantee and exclusion of warranty

The Provider assigns to the Client all rights that are derived from the manufacturer's guarantee. On being sent the order form, the Client shall be notified of the duration and terms of the manufacturer's guarantee either in printed form or by means of a link to the manufacturer's website.

The Provider otherwise excludes all guarantee or warranty claims to the extent permitted by law and is therefore relieved to this extent of any related liability towards the Client.

10.6 Acquisition of software licences

In the event of any acquisition of software licences by the Client, the provisions of this Clause 10.6 take precedence over the other provisions of these GTC. In addition, the provisions for the sale of hardware products in accordance with Clause 10 of these GTC apply by analogy to the acquisition of software licences.

10.7 Acquisition of licences to the Provider's software

In the event that the Client, in fulfilling the contractual duties, acquires licences to the Provider's software products, it undertakes to comply unreservedly with the licence provisions applicable. In particular, the Client undertakes to use the relevant software exclusively in accordance with the relevant provisions and not to exploit it commercially.

10.8 Acquisition of licences to third party software

In the event that the Client acquires licences to third party software products via the Provider, the Client shall in each case enter directly into an agreement with the software manufacturer concerned. The Provider is not involved as a contracting party in this contractual relationship. Accordingly, the Client is exclusively responsible for any extension to such software licences.

The Client undertakes both in relation to the software manufacturer concerned and to the Provider to comply unreservedly with the licence conditions applicable in the case of all software licences acquired.

10.9 Conclusion of service contracts for third party software

In the event that the Client enters into service contracts for third party software products via the Provider, the Client shall enter directly into an agreement with the software manufacturer concerned. The Provider is not involved as a contracting party in this contractual relationship.

Provided the Provider is aware that such a service agreement has been entered into, it shall notify the Client in good time that the service agreement concerned is due to expire and, if applicable, must be renewed. However, the Client is exclusively responsible for any extension to such service contracts.

11. Modifications and extensions to the project

11.1 Modifications to the project

The parties may at any time submit a written proposal that the agreed services be modified. The Provider shall inform the Client at the latest 10 working days after receipt of the request for modification in writing of:

- the consequences for the originally agreed services;
- the consequences for the originally agreed schedule; and
- the consequences in relation to risks and costs.

The Provider has no responsibility for decision-making process on the Client's side. The Provider however shall be available to give advice. In the absence of a written agreement to the contrary, the work shall continue unmodified until the Client's decision is made.

The Client shall advise the Provider of its decision in writing within ten working days of receipt of above mentioned notification. In the case of major or fundamental modifications, the Provider shall draw up an annex to the relevant individual agreement with updated specifications, which must be signed by both parties.

Following signature of the annex or confirmation by the Client of the modification to the project, the modification shall constitute an integral element of the relevant individual agreement, whereby any provisions of the individual agreement that are contradictory to the modification shall be deemed null and void.

11.2 Project extensions or additional project phases

The Client may at any time propose the extension of an existing project or the conduct of additional project phases following the already agreed project phases. In such cases, the Provider shall in each case set out the deliverables, costs and deadlines that are associated with these project extensions or additional project phases in an annex to the relevant individual agreement.

On signature of the relevant annex to the agreement by both parties, it shall constitute an integral element of the existing individual agreement. The provisions of the existing individual agreement also apply to the additional annex to the agreement in question, unless they are contradictory thereto.

12. Duration and termination of the Agreement

12.1 Duration of the Agreement

The Agreement together with any subsequent amendments and additions comes into effect on its signature by both parties and replaces all prior contracts and agreements of a similar nature. The Agreement is entered into for an unlimited period.

12.2 Ordinary and extraordinary termination

The Agreement may ordinarily be terminated by either party at the end of any month without stating any reasons but subject to 6 months' written notice.

In the case of a serious breach of contract or any other good cause, either party may at any time terminate the Agreement extraordinarily. There is good cause in particular if:

- the other party by its own fault infringes a fundamental provision of these GTC or of another contractual provision and this infringement is not remedied within two calendar weeks despite a written reminder being given.
- the other party faces a serious risk to or suffers a serious deterioration in its financial circumstances or an application for bankruptcy is filed against it.

12.3 Consequences of termination

In the event of the termination of the Agreement the Provider shall support all the required work towards an orderly end to services or handover to the Client or to third parties. Within 30 days of receiving notice of ordinary termination and immediately on receiving notice of extraordinary termination, the Provider shall submit to the Client for approval a detailed plan in relation to the end to or handover of services. The work done by the Provider in this connection shall be remunerated on a time and material basis.

In the event of the termination of the Agreement each party shall return to the other party, immediately or in accordance with termination or handover plan, all the documents, information, data, devices, materials, keys, etc. that they have received from the other party in the form in which they were received. In the event that return is not possible, the information, software etc. shall be permanently deleted, subject to the statutory duties of retention and documentation, and the retention of information stored in backups. The related costs shall be borne by the party required to return the items and information in question. The parties shall confirm on request in writing that all the items and information subject to the return or deletion obligation have been returned or deleted.

13. Further contractual provisions

13.1 Non-solicitation guarantee

For the duration of the Agreement and for 12 months following termination of the Agreement each party may only employ employees of the other party by mutual written consent. The foregoing also applies to former employees if the termination of

employment with the other party took place less than 12 months previously.

13.2 Force majeure

The parties shall not be held liable for the consequences of force majeure, such as strikes, lock-outs, civil unrest or floods or official measures, provided such events were unforeseeable and/or unavoidable in the specific individual case. If, owing to the consequences of force majeure, the provision of one or more contractual services is significantly impeded, the Provider may postpone the fulfilment of its obligations by an appropriate recovery period.

13.3 Amendments to the Agreement

Subsidiary agreements and amendments must be done in writing in order to be valid and must be signed by the parties. This requirement of form may only be dispensed with by written agreement.

13.4 Reference

The Client shall grant the Provider on request the permission to use its name and logo as a reference on the internet and on electronic or printed documents and materials. The Client may revoke or limit this right at any time.

13.5 Exclusion of a corporate relationship

The parties do not wish under any circumstances to enter into a corporate or similar relationship nor to form a simple partnership in terms of Article 530 ff. of the Swiss Code of Obligations.

13.6 Set-off and transfer of rights and obligations

The setting off of claims is only permitted with the written consent of the other party.

The Agreement as well as individual rights and obligations arising from this Agreement may only be assigned to third parties with the written consent of the other party, whereby the consent may not be refused in bad faith.

13.7 Partial nullity

Should one or more contractual provisions prove null and void or ineffective, the validity of other contractual provisions or the Agreement shall not be affected thereby. In such an event, the parties shall adapt the Agreement so that the purpose of the part that is null and void or ineffective is as far as possible achieved.

13.8 Prohibition of competition in relation to end customers

Where the Client obtains services from the Provider for its own end customers, the Provider undertakes not to provide similar services directly to these end customers without the Client's prior written consent.

This obligation on the part of the Provider applies for the duration of the Agreement concerned and for 6 months following its termination.

13.9 Governing law and jurisdiction

The Agreement is governed by **Swiss substantive law, excluding the international rules on the conflict of laws** and the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (the Vienna Convention on Sale of Goods).

The exclusive place of jurisdiction for all legal disputes that arise directly or indirectly from the Agreement **is the City of Zürich**. The Provider may however also raise proceedings for interim measures in other courts.