

## General Terms & Conditions of Purchase

### §1 Scope, written form

- (1) The following terms & conditions together with any additional contractual terms & conditions mentioned in the confirmation letter ('order') from Vocatus Consulting AG & Co. KG (hereafter referred to as the 'Principal') shall exclusively apply. Any conflicting or divergent terms & conditions on the part of the Contractor are non-binding, even if the Principal is aware of these conflicting or divergent terms & conditions and nevertheless accepts the Contractor's tender unconditionally. Any confirmation on the part of the Contractor whilst alluding to his own terms & conditions is hereby rejected.
- (2) Only orders and/or other declarations of intent that are made in writing are effective in law. Orders made electronically (for example, via fax and email) also satisfy the written form within the meaning of the above-mentioned provision.
- (3) The following elements successively apply as the basis for the contract:
  1. The confirmation letter ('order') from the Principal
  2. If applicable, the project briefing that has been conducted by the Principal
  3. Contracts relating to the processing of order data, data protection, and confidentiality
  4. These General Terms & Conditions of Purchase
  5. The technical part of the Contractor's tender

### §2 Invoices and payments

- (1) Unless otherwise agreed, payments shall be made within 30 days net without deduction of discount. The payment period begins on the day when the invoice is received, although not before receipt of the non-defective goods and acceptance of the service(s) provided. Payments made do not mean that the Principal has acknowledged the services to have been provided as specified in the contract.
- (2) Unless otherwise stipulated, all the services that are to be provided by the Contractor together with other accompanying expenditure are covered by the remuneration that has been agreed. Travel expenses are only reimbursed if this has exceptionally been agreed in writing. Any reimbursement can only be made if generally accepted accounting procedures have been used and copies have been presented as evidence. Any exceptions to this require prior written consent on the part of the Principal.
- (3) Invoices are only deemed to have been correctly issued if they state the Principal's order number and project number. Advance payment invoices must be clearly identified as such.
- (4) The Contractor is himself responsible for the correct payment of tax on any remuneration received from the Principal. VAT / sales tax at its current rate is added to this remuneration if – and to the extent to which – the Contractor's services are subject to VAT / sales tax and if the Contractor submits an invoice in proper form which complies with the provisions of the German Value Added Tax Act. If it transpires that the Contractor's services are not subject to VAT / sales tax, the Contractor must without delay reimburse the Principal for the VAT / sales tax that has been wrongly declared whilst waiving the defence that he has suffered a financial loss (Section 818 (III), German Civil Code).
- (5) The Principal is entitled to deduct from the agreed remuneration any source/withholding taxes that may be incurred and to pay this amount to the tax authorities on behalf of the Contractor unless the Contractor is in possession of a valid certificate of exemption.
- (6) Advance payment invoices and the billing of partial services require the Principal's written consent.

### §3 Fulfilment of contract by third parties

- (1) Without the prior written agreement of the Principal, the Contractor must not wholly or partly transfer his obligations arising from the contract to other parties or pass the services and tasks assigned to him to other companies. This also applies to services for which the Contractor's business is not equipped. If

# VOCCON

subcontractors intend to award partial services to other companies, this likewise requires the prior written agreement of the Principal.

- (2) The Contractor must impose upon the subcontractor(s) any obligations he has received from the Principal with regard to the tasks for which they have assumed responsibility, and must ensure that these obligations are being adhered to.
- (3) If the Contractor intends from the outset to use third parties to fulfil the contract, the Contractor must already inform the Principal of this fact in his tender.
- (4) The Contractor's liability is not affected by the subcontracting itself or by information about the design of the subcontractual relationship or the Principal's consent to this.
- (5) If the Contractor deploys subcontractors without prior written consent as specified by Section 3.1, the Principal is entitled to withdraw from the contract and/or demand damages due to non-fulfilment.

## §4 Delay/default

- (1) Dates and deadlines that have been agreed in writing are binding. The Principal must immediately be informed if there is a likelihood of delay/default.
- (2) If the deadline for which the Contractor is responsible is exceeded, the Principal is entitled to demand a contractual penalty amounting to 0.15% of the total value of the order (net) for each working day, albeit to a maximum of 5% in total. Further rights remain unaffected. The contractual penalty is credited against any claims for damages that may have been asserted by the Principal. If the contractual deadlines are revised by mutual agreement, the above-mentioned contractual penalty also applies to these newly determined deadlines. The Principal can assert his claim to the contractual penalty until the final invoice has been settled.
- (3) Only the actual delivery of the service as specified in the contract at the agreed place of performance and on the agreed date is decisive when it comes to the timeliness of the service(s) provided. If the Contractor is in default with regard to provision of the service(s), the Principal can also withdraw from the contract once an appropriate period of grace has elapsed, and can demand damages instead of the service(s).
- (4) The Contractor must reimburse the Principal for any additional expenditure arising from the delay/default on the part of the Contractor. Further claims by the Principal remain unaffected.

## §5 Liability

- (1) Within the framework of legal provisions, the Contractor is liable for breaches of contract as well as for any personal, material and financial damage inflicted upon the Principal or third parties while carrying out the contract unless he can prove that he is not responsible for the breach of contract.
- (2) The Contractor undertakes to indemnify the Principal against any claims for damages made by third parties which these third parties assert against the Principal for reasons stemming from a deficiency in the Contractor's delivery/performance if the latter fails to prove to the Principal that he is not responsible for the event that has triggered the loss or damage. The above-mentioned provisions also apply if the Contractor uses the services of a performing or vicarious agent.
- (3) In order to cover liability risks arising from the order, the Contractor undertakes to conclude appropriate liability insurance and to provide evidence of this at the Principal's request.

## §6 Non-performance or insufficient performance, defects, warranty

- (1) In the case of non-performance, insufficient performance and/or deficient performance ('defects'), the Contractor will – according to the Principal's choice – either remedy the defect at his own expense within an appropriate period of time or provide his services again and without any defects. If – despite the appropriate period of grace – the Contractor fails to remedy the defect or again provide the services

# VOCCON

without any defects, the Principal can withdraw from the contract or reduce the remuneration to an appropriate degree or remedy the defect or have it remedied at the Contractor's expense and demand damages instead of the relevant performance.

- (2) Besides this, any warranty claims as well as further claims for damages on the part of the Principal shall comply with the relevant legal provisions.

## §7 Third party rights, usage and exploitation rights

- (1) The Contractor guarantees that the services provided under the terms of the contract are free of any third party rights. In particular, he must indemnify the Principal against any claims made by third parties due to infringements of rights.
- (2) The Contractor shall supply the Principal with any work outcomes that are due in accordance with the terms of the order.
- (3) 'Work outcomes' are deemed to be any outcomes and insights (including copyrightable results) which are achieved when the services that have been commissioned are provided by the Contractor and/or a third party that has been commissioned by the Contractor, and in particular those items that are to be produced, intermediate and/or by-product outcomes, objects, concepts, graphics, sketches, reports, documents, software and its source code.
- (4) Without any restrictions pertaining to time, place or content, the Principal has the exclusive, irrevocable, transferable and sublicensable right to utilise, copy and alter the work outcomes himself or via a third party in any way he likes, and also – in a form that he has edited – make them available to the public, publish them, or exploit them. If a granting of ownership is impossible from a legal perspective, the Contractor will ensure that the Principal is granted a written usage right whose scope is as previously described.
- (5) Any rights to the work outcomes that have been granted and ceded to the Principal by the Contractor within the framework of a specific contract together with any rights resulting from this including those property rights that may be based upon these rights are covered by the remuneration owing under the terms of the contract. Unless otherwise agreed in individual cases, the Contractor ensures that the originator consents not to be named/credited within the context of the work outcomes that have been achieved.

## §8 Cancellation

- (1) The Principal can at any time cancel the entire contract or parts thereof.
- (2) If the Contractor becomes insolvent, discontinues his payments, or an application is made to open insolvency proceedings and/or composition proceedings relating to the assets of the Contractor or one of its owners, the Principal can – notwithstanding other rights – withdraw from that part of the contract that has not been fulfilled. This also applies if the Contractor fails to adequately comply with his obligations as set out in Section 10.3.
- (3) If the Contractor is responsible for the reasons behind the cancellation or the cancellation occurs in accordance with Section 8.2, remuneration is only required for the stand-alone services that have hitherto been verifiably provided under the terms of the contract so long as they can be exploited by the Principal. Any claims for loss or damage by the Principal remain unaffected.
- (4) If the Contractor is not responsible for the reasons behind the cancellation, the Principal will reimburse the expenditure which has verifiably arisen prior to termination of the contract and which directly results from the respective order. The Contractor is not entitled to further claims for fulfilment or damages arising from the cancellation. The property and/or usage rights to the work outcomes produced prior to the cancellation are transferred to the Principal as set out in Section 7.

# VOCCON

## §9 Confidentiality, data protection

- (1) The Contractor undertakes to maintain the utmost silence towards any third parties regarding matters relating to the Principal that the Contractor learns about in the context of his business relationship with the Principal or in any other way.
- (2) It is especially important to maintain silence with regard to commercial and operational secrets, confidential data and information, as well as product-related and company-related know-how. In particular, the obligation to maintain silence extends to customer data and data evaluations.
- (3) Any data and other documents that the Principal makes available to the Contractor in the context of the business relationship remain the property of the Principal. Copies of the data that is handed over for processing must not be produced; back-up copies that ensure orderly data processing are an exception to this.
- (4) If at any time requested by the Principal or upon termination of the respective contract, the Contractor is obliged to hand over in its entirety to the Principal – or with the Principal's agreement to destroy in accordance with data protection – any data and other documents plus results of processing and use that remain in his possession. Any right of retention is excluded in every case.
- (5) The Contractor undertakes to observe the provisions of data protection legislation and in particular to safeguard any personal data.
- (6) Any citing of the Principal as a reference requires the express written permission of the Principal in advance. Any permission that has been granted is valid until it is rescinded. The Principal can withdraw such permission at any time without adhering to a specific deadline and without stating any reasons.
- (7) The above-mentioned obligations also apply beyond the contract period.

## §10 Corporate social responsibility, General Equal Treatment Act, minimum wage

- (1) The Contractor undertakes to comply with legislation relating to the respectively applicable legal framework(s), not to tolerate any form of corruption and bribery, to respect the fundamental rights of employees, and to comply with the prohibition of child labour and forced labour. Besides this, he will assume responsibility for the health and safety of his employees in the workplace, ensure fair remuneration and working hours, comply with environmental legislation, and to the best of his ability promote and demand adherence to these principles by his (sub)contractors.
- (2) The Contractor undertakes to comply with the German General Equal Treatment Act, namely to prevent or eradicate any disadvantages arising from a person's race, ethnic origin, gender, religion or world view, disability, age, or sexual identity. One should be aware that this anti-discrimination legislation applies in equal measure to employers, employees, external suppliers/providers, work colleagues, and towards any other business partners.
- (3) The Contractor undertakes to comply with the legal provisions of the Minimum Wage Act that applies in Germany. He is also responsible for ensuring that the subcontractors he uses likewise comply with this and/or pass these obligations to their own subcontractors. Within this context, he (amongst other things) undertakes – when requested in writing by the Principal – to present evidence that the minimum wage has been paid by himself and/or his subcontractors. The Contractor is liable for any damages arising for the Principal due to non-compliance with the Minimum Wage Act, and indemnifies the Principal against any claims connected to demands for the minimum wage. This also applies to any fines/penalties that are incurred. He furthermore undertakes to promptly inform the Principal if there is a suspicion that he or one of his subcontractors is violating the provisions of minimum wage legislation.

## §11 General provisions

- (1) Should individual provisions be or become inoperative, this does not adversely affect the validity of the remaining provisions. In this case, the contractual partners undertake to make new agreements which

# **voccon:**

correspond to – or come as close as possible to – the commercial outcome of the inoperative provisions.

- (2) The language of the contract is either German or English. The contractual relationship is exclusively subject to the law of the Federal Republic of Germany without any possibility of recourse to conflict of laws provisions and the UN Convention on Contracts for the International Sale of Goods (CISG).
- (3) The sole place of jurisdiction is the City of Munich, Federal Republic of Germany.