

Krusche & Company GmbH
- hereinafter called "Contractor" -

GENERAL TERMS AND CONDITIONS FOR SERVICE CONTRACTS

1. Scope

- 1.1 These General Terms and Conditions shall apply to all service contracts concluded with the Contractor. The subject matter of the contract can in particular be: the elaboration of technical or data processing related concepts based on a planning in compliance with specifications; the preparation of individual software based on a concept in compliance with specifications; the licensing of standard software together with other deliveries or services; the processing of standard software according to the Client's individual requirements; the delivery of turnkey systems (hardware and software); the preparation of expert reports in the areas of organisational consulting and information processing.
- 1.2 The licensing of standard software requires a supplementary individual contract.
- 1.3 The Client's General Terms and Conditions shall only apply if they have been expressly accepted by the Contractor in writing.

2. Offers

- 2.1 All offers of the Contractor are subject to change without notice unless something else is explicitly set forth in the offer. Conclusions of contracts and other agreements shall only become binding upon written confirmation by the Contractor. The Contractor shall reserve the right to minor technical-related deviations from the offer, even after order confirmation.
- 2.2 The Client shall ensure that the offer provided to him will not be disclosed to third parties in whole or in part without the prior written consent of the Contractor; this also applies to unedited versions.

3. Execution of an individual contract

The Contractor shall determine and take responsibility for the way and means of executing the individual contract within the framework of the provisions of an individual contract. The Client has no decisional authority; however, the Contractor shall always aim to consider the Client's desires.

4. Client's duty to cooperate

- 4.1 The Client shall ensure that all necessary cooperation of himself or his agents shall be provided in time and free of charge for the Contractor, unless otherwise agreed in the individual contract.
 - 4.2 The Client shall provide any necessary support to the Contractor's employees during their work at the Client's premises.
 - 4.3 Data media provided by the Client must be correct and in an impeccable technical state. Otherwise, the Client shall make up for the loss incurred to the Contractor by using these data media and shall release the Contractor from any third parties' claims.
 - 4.4 The Client shall retain a copy of all documents and data media provided to the Contractor which he can revert to at free of charge at any time.
- ### **5. Confidentiality**
- 5.1 The Client and the Contractor shall mutually undertake to treat any documents and information confidentially that have been expressly designed to be confidential or are obviously recognisable as not being intended for third parties. They shall impose this obligation also on their employees.

5.2 The Contractor's employees are under obligation to maintain secrecy in accordance with article 5 of the Data Protection Law of the Federal Republic of Germany (Bundesdatenschutzgesetz).

6. Delivery times

6.1 The Contractor shall deliver the supplies or services provided in the individual contract within the contractually specified period. A delivery shall be deemed to be executed on the date of handover, relinquishment or installation.

6.2 If non-compliance with the deadline for deliveries or services is provably due to impediments the Contractor is not responsible for, the deadline shall be extended appropriately.

6.3 If the Contractor falls behind schedule, the Client shall grant an appropriate extension period. After the end of the additional period the Client shall be entitled to claim compensation for default as follows: if the default exceeds 30 calendar days the Contractor shall pay the amount of 1/1500 of the compensation related to the delivery or service behind schedule for each day's delay, up to a maximum of 100 days of delay. The compensation for default is limited in total to the amount of the immediate proven damage, unless there is mandatory liability in cases of intent or gross negligence.

7. Dispatch and transfer of risks

7.1 All shipments are insured against damages or losses occurring during transport until the arrival at the Client's. If a damage or loss during transport occurs, the Contractor must immediately be notified and provided with the relevant damage or loss confirmation by the carrier. The damaged goods must be kept available to the Contractor.

7.2 The risk shall pass to the Client upon delivery.

7.3 The Client shall inspect the external condition of the shipment upon arrival as well as all goods immediately on the date of delivery; he shall notify possible transport damages in writing to the carrier, secure evidence thereof and immediately inform the Contractor and the sender by phone and in writing. As far as the Client acquires claims against the carrier before the

transfer of risks, he shall assign them to the Contractor.

8. Installation and implementation

8.1 The installation of devices or systems including extensions, the implementation of software as well as the training of personnel shall only be carried out on the basis of special agreements.

8.2 The Client shall make available all necessary rooms including the technical pre-requisites for installations and implementations; furthermore, he shall provide assistance during the installation process, by provision of the necessary staff, if needed; and he shall enable to proceed the work in case of need also outside of normal working hours. In addition, he must designate a contact person, who is at the disposal of the Contractor's employees during the installation or implementation period and who is entitled to give explanations necessary for the performance of the work.

9. Acceptance

9.1 The Contractor can submit partial deliveries or services for approval (partial acceptance). This includes: self-contained phases to fulfil the deliveries or services specified in the individual contract; self-contained and thus functional parts of the subject of an individual contract; self-contained documents or parts of them.

9.2 The Client shall carry out every acceptance (or partial acceptance) of the deliveries or services rendered by the Contractor. The Contractor is entitled to take part in every acceptance.

- 9.3 The acceptance of devices or systems including extensions or the acceptance of software the Contractor has agreed to carry out the installation or implementation for shall be done by functional testing. The functional testing shall be deemed to be successful if no material error has been detected by the testing procedures used by the Contractor for this purpose.
- 9.4 The acceptance period shall be maximum 30 calendar days, starting as soon as the Contractor makes the owed delivery or service available to the Client for acceptance (or partial acceptance). The delivery or service shall be deemed as accepted unless the Client has made a complaint about material defects in writing.

10. Warranty

- 10.1 The Contractor shall carry out the accepted deliveries and services with the requisite care considering the general state-of-the-art of the technology by qualified employees.
- 10.2 The Contractor's warranty obligations are limited, at the Client's option, to rectification or replacement delivery, whereas replaced parts or source codes shall become property of the Contractor. Considering the nature and scope of the obligations assumed by the Contractor he shall have the right to multiple rectification or replacement delivery owing to the same defect.
- 10.3 If rectification fails or replacement delivery is inadequate, the Client shall reserve the right to reduce remuneration or to revoke the contract at his option.
- 10.4 Further claims shall be excluded.
- 10.5 Any eventual warranty obligation is not applicable if the notice of defects has not been made immediately in writing, the defect is due to incorrect or incomplete indications or insufficient cooperation of the Client or if the Contractor's deliveries or services have been modified without prior approval. If the Contractor remedies such a defect upon the Client's request, the Contractor shall have the right to claim an appropriate compensation.
- 10.6 Warranty claims shall expire within six months. Warranty is excluded for deliveries of used devices.

11. Property rights

- 11.1 If German property rights of third parties are infringed using the software and thus its use, in a whole or in part, is prohibited to the Client by declaratory judgment, the Contractor shall proceed as follows at his option and at his cost:
- provide the Client with the right to use the software or
 - configure the software without protection or
 - replace the software by another software, which provides the corresponding performance and does not infringe property rights.
- 11.2 If none of the remedies according to section 11.1 is available or economically not reasonable, the Contractor shall take back the software at the price paid deducting an appropriate compensation for use.
- 11.3 The Contractor shall be released from his obligations if the Client does not act in agreement with the Contractor when defending such claims of third parties.

12. Liability

The following rules governing liability shall apply to the Contractor's liability as well as the individual liability of his employees, his agents and vicarious agents, regardless of the legal basis±.

- 12.1 The Contractor shall be liable for damages to persons and property caused by him owing to slight negligence up to the flat-rate amount of € 1,000,000,- and for economic losses up to € 250,000,-, per damage or loss event and the double amount per year.
The Contractor shall not be liable for the replacement of data, unless he has caused its destruction by gross negligence or intentionally and the Client has ensured that the data to be recovered is contained in a machine-readable format and that it can be recovered with minimum effort.
- 12.2 The aforementioned limitations on liability do not apply if the Contractor's liability is not expressly stipulated by law, e.g. according to the German Product Liability Act (Produkthaftungsgesetz).
- 12.3 The Client shall undertake to inform the Contractor immediately in writing of damages or losses the Contractor must take responsibility for or to have them recorded by the Contractor.

12.4 In case of claims for damages against the Contractor, his employees, agents and vicarious agents owing to slight negligence these shall expire by limitation within one year from the date on which the contractual service should have been rendered.

13. Rights to the subject of the contract

13.1 The Client shall be entitled to unlimited use within his company of the deliveries and services rendered by the Contractor in the framework of the individual contract after this work has been paid for; this does not apply to standard software.

13.2 The Client shall guarantee that the deliveries and services of the Contractor including the related documents will not be disclosed to third parties without prior written approval of the Contractor; this also applies to unedited versions.

13.3 If an individual contract providing an exclusive right of use to the Client is cancelled by the Client although the Contractor has worked in accordance with the contract so far, the Client shall only receive a simple right of use instead of an exclusive one; the Contractor shall keep the exclusive right of use. In all other cases of cancellation the Contractor shall receive at least a simple transferable right of use for all types of use.

13.4 Any deliveries and services shall remain the property of the Contractor until the entire fulfilment of any claims existing against the Client. The reservation of title shall also apply to possible replacement deliveries. The Client shall not be entitled to pledge the reserved property to third parties or to transfer them as a security. If the reserved property is made use of by third parties, the Client shall point out the Contractor's reservation of title to the third parties and inform him immediately.

13.5 The Client and the Contractor shall be free to publish the deliveries and services unless the company name and the share of the contracting partner are stated.

13.6 The aforementioned provision also applies if deliveries or services of the Contractor are not intended for the Client himself, but for third parties.

14. Remuneration and due date

14.1 The prices of the individual deliveries and services as well as the entire remuneration

shall be as set forth in each individual contract, supplemented by the Contractor's price lists.

14.2 All prices include the costs for packaging, transport insurance and freight for delivery to the premises provided for the installation.

14.3 If time-based remuneration has been agreed, the Contractor's work reports, which shall be prepared by each employee of the Contractor with an accuracy of 0.5 hours, shall be the basis for invoicing. Times required for travelling shall be paid by at least 75% of the fee per hour agreed. Invoicing shall take place on a monthly basis in arrears.

14.4 If remuneration at a fixed price has been agreed, the Contractor shall be entitled to advance payment and adequate instalment payments of the remuneration at least in the following proportions:

- 35% at the commencement of the contract,
- 50 % at delivery of the project to the Client,
- 15% upon acceptance of the project by the Client.

14.5 In addition to the remuneration, the Contractor shall invoice other costs incurred (e.g. travel expenses, computer and software costs) on a monthly basis in arrears.

14.6 If a remuneration amount per working hour has not been agreed by contract, it shall result from the Contractor's currently valid price list according to the qualification of the employee deployed.

14.7 If the hours worked or travelled are outside the normal working time, the following supplements to the remuneration shall be charged per working hour:

- 30% on working days between 8 p.m. and 6 a.m.
- 50% on Saturdays, Sundays and public holidays

- 14.8 If the amount of work significantly exceeds the Contractor's estimations when taking over the assignment, owing to incomplete or incorrect information or improper cooperation of the Client, the Contractor shall be entitled to an appropriate increase of the initial remuneration, even in case of a remuneration based on a lump sum or maximum limitation.
- 14.9 The remuneration and additional costs do not include the German value added tax at the current rate.
- 14.10 Invoices shall be due and payable without deduction within 14 days from the date of invoice. In case of delays in payment by the Client the Contractor shall be entitled to charge interests of 3% above the respective discount rate of the Deutsche Bundesbank (German Federal Bank).
- 15. Set-off, assignment, statute of limitation**
- 15.1 Set-off by the Client is excluded unless the claim is uncontested or legally effective.
- 15.2 Claims arising from the individual contract can only be set-off by the Client upon previous consent of the Contractor.
- 15.3 All claims of the Client against the Contractor shall be subject to a 12-month limitation period after termination of the individual contract unless otherwise regulated by these General Terms and Conditions. The Contractor then shall have the right to destroy the documents provided by the Client; he shall return them to the Client upon written request.
- 16. Other provisions**
- 16.1 Different or supplementary conditions as well as supplements or modifications thereof only apply if they are expressly agreed in writing.
- 16.2 Each contract concluded according to these terms and conditions shall remain binding with respect to its remaining parts, even in the event of invalidity in law of individual parts of its provisions. The contracting parties shall replace such invalid provisions by valid ones, which come closest to the purpose intended. This also applies to any gaps in the contract.
- 16.3 The Client shall be entitled to transfer the rights and obligations from this contract to third parties only upon prior written consent by the Contractor.
- 16.4 The Client shall be entitled to set-off claims of the Contractor or to assert a right of retention thereof only if the counter-claim is uncontested or legally effective.
- 16.5 The place of fulfilment shall be mutually agreed by the parties.
- 16.6 These Terms and Conditions shall be governed by the law of the Federal Republic of Germany, however, the application of the Hague convention relating to a Uniform Law on the International Sale of Goods of 1st of July 1964 and in the United Nations Convention related to the international purchase of movable goods of 11th of April 1980 shall be excluded.
- 16.7 If the Client is a businessman, the exclusive jurisdiction for all disputes arising out of or relating to this contract shall be the respective headquarters of the Contractor.