

Special Conditions for Services

§ 1

Scope of application

1. The present Special Conditions for Services (hereinafter referred to as “SCS”) shall apply in their current version upon contract conclusion, in addition to the General Sales and Rental Conditions in their current version, to all contractual services to be provided by the ISD. In the event of contradictions, the SCS shall take priority over the General Sales and Rental Conditions. “Contractual services” are the services stated in the order confirmation.
2. The present SCS shall also apply to all future service orders placed during the ongoing business relationship with the customer. The customer can download these SCS from the homepage of the ISD at any time. The ISD will provide the customer with a free copy of these SCS upon request.
3. Terms and conditions of the customer that are contrary to or deviate from these SCS, as well as unilateral terms and conditions of the customer shall not apply, even if the ISD does not explicitly object to them or unconditionally renders or accepts services, unless the ISD has expressly approved such terms and conditions in writing.

§ 2

Subject of contract

1. Upon placement of the service order, the ISD undertakes to provide the contractual services to the customer. The customer undertakes to pay the agreed fee to the ISD.
2. The scope of order is conclusively stated in the order confirmation and the concept book, to the extent referred to in the order confirmation.
3. The service order is a service contract according to § 611 BGB (German Civil Law Code). Performances under contracts for work and/or services (German: “Werkvertragliche Leistungen”) are not subject of the service order. The ISD does not owe any specific success regarding the contractual services.

§ 3

Service provision, Deadlines, Default of acceptance

1. The ISD fulfils the contractual services according to generally acknowledged technical rules and through qualified employees.
2. If the date of order fulfilment is not set forth in the order confirmation, the contractual services stated in the order must be used within 6 months after receipt of order confirmation, provided that the contract was concluded through the order confirmation.

3. If the customer falls into arrears with the acceptance of the contractual services, the ISD can demand the agreed fee for the contractual services which could not be fulfilled as a consequence of the default of acceptance, without obligation to any subsequent services. However, the ISD shall offset the value of any saving it makes as a result of the non-fulfilment of services ("saved expenses"), or of incomes it acquires by using its services elsewhere, or maliciously omits to acquire. The ISD charges such saved expenses in the form of a standardised deduction of 5% of the agreed net pay, unless the customer proves that the saved expenses for the ISD were actually higher.
4. Exclusive contact person for all questions regarding contractual services shall be the corresponding project manager chosen by the ISD. This shall also apply if employees of the ISD perform services at the customer's company. The customer is not authorized to give these employees any instructions.
5. The customer shall support the ISD in an adequate manner during fulfilment of the contractual services. In particular, he/she shall provide the required prerequisites, information, documents and/or data completely and in a timely manner. If required, the customer shall provide the employees of the ISD with the necessary technical infrastructure, access to his/her business operations and workrooms.
6. If the customer postpones an appointment at short notice, the following cancellation costs will be charged:

Cancellations not later than 14 days before fixed date:	50 %
Cancellations not later than 7 days before fixed date:	95 %

§ 4

Training

1. "Training" according to these SCS comprises separately ordered operational support and user trainings for customers and their employees. If the ISD provides contractual services in the form of trainings, the following conditions shall apply.
2. Training is always provided on the basis of the current version of the contractual software. Costs incurred by the customer's wish to conduct the training with an older version of the contractual software shall be borne by the customer.

§ 5

Use and protection of work results, Right to perform audits

1. The work results created through fulfilment of the contractual services (e.g. training books, documentations, installation or work instructions etc.) are confidential and protected by copyright. The rights granted by the ISD to the customer to use these work results are conclusively stated below. No further rights of use or exploitation shall be granted to the customer.

2. The customer shall obtain, subject to the complete payment of the fee agreed upon for the contractual services, a non-exclusive, perpetual right to use the work results for his/her own purposes.
3. The customer shall not be entitled to disclose the work results to third parties, whether against payment or free of charge, or make them publicly accessible.
4. Copyright notices, serial numbers or other references serving the purpose of identification must not be changed or removed from the work results.
5. The customer shall take suitable measures to protect the work results against unauthorized access by third parties. In particular, he/she shall ensure that all copies of the work results are stored in a safe place.

§ 6

Payment

1. The payment to be made by the customer is calculated from the actual time spent by the ISD on the fulfilment of the contractual services. It will be charged on the basis of the day rates or half day rates stated in the order confirmation, by man-days or half man-days. The day rate is to be paid for each started man-day. For a working time of up to 4 hours, ½ man-day will be charged; for longer times up to a working time of 8 hours, 1 man day will be charged.
2. Any particular numbers of man-days stated in the order confirmation or project description correspond to non-binding, preliminary estimates by the ISD. They shall neither constitute a minimum price, nor an upper cost limit, nor a price quote according to § 650 BGB (German Civil Law Code).
3. If the ISD requires external, purchased performances to fulfil the contractual services, the costs entailed – as stated in the order confirmation – shall be borne by the customer.
4. After reaching a volume of approx. 20 man-days or, alternatively, on a monthly basis, the ISD will present to the customer an interim invoice which is payable immediately and without deduction. The final invoice will normally be presented by the ISD within 1 month after project completion. This invoice, too, will be payable immediately and without deduction.
5. All agreed prices are net prices, i.e. exclusive of any value-added tax. Discounts, reductions or bonuses shall only be granted if they have been separately agreed upon in writing.
6. Payments shall be made within 14 days from the date of invoice. Payment and discount periods allowed by the ISD start with the date of invoice. Any agreed discount deductions are only permissible if the customer is not in arrears with the payment of other receivables resulting from our business relationship. Punctuality of payment is determined by the corresponding credit entry in the business account of the ISD.
7. If the customer falls into arrears with any payments, he/she shall pay an interest of 9 % above the base interest rate whilst in arrears.

§ 7

Faulty services, Liability, Limitation periods

1. If a contractual service provided by the ISD is faulty, the ISD shall initially be entitled and obliged to take corrective action, i.e. to rectify the contractual service subsequently within a reasonable period and in accordance with the contract.
2. If the customer raises claims for damages or for futile expenditures, ISD shall only be liable according to § 7 of the General Sales and Rental Conditions.
3. Contractual claims for damages and claims for futile expenditures by the customer due to a faulty contractual service, as well as the right to demand rectification shall expire after 12 months. However, this does not apply in case of an intentional or grossly negligent breach of duty; or a violation of essential contractual duties; or claims on account of injury to life, body, health or freedom; or liability according to the Product Liability Act; or if the ISD has, in exceptional circumstances, accepted a guarantee. In such cases the statutory periods of limitations shall apply.