

General Terms and Conditions of IT District GmbH for Services



1. Subject matter

1 IT District GmbH, Gewerbestrasse 6, CH-6330 Cham ("**IT DISTRICT**"), provides general IT services, particularly in the IT security sector, and in this context also sells software licenses and hardware. These General Terms and Conditions ("**GTC**") govern the use of personnel for all kinds of services ("**Services**"). The delivery of hardware or software, on the other hand, shall be governed by the general terms and conditions adopted specifically for this purpose.

2 These GTC apply to the extent that no agreement has been reached between the parties based on an individual contract.

3 The issuance of a service order ("**Order**") includes the acceptance of these GTC by the customer. Ancillary agreements shall be made in writing. An exchange of consensual mutual expressions of intent by email shall be deemed to fulfill the requirement of written form.

2. Type and scope of the Services provided by IT DISTRICT

4 In principle, IT DISTRICT may only be deployed for work within the scope of the written Order. Activities that go beyond the agreed scope of the Order require the prior written consent of IT DISTRICT.

5 Offers of Services shall only be binding when submitted in writing.

6 IT DISTRICT shall perform the assigned Services in compliance with the customer's implementation instructions and undertakes to comply with the customer's operationally agreed rules, in particular safety regulations and the house rules. The personnel deployed for the Services shall always be trustworthy, carefully selected and well-trained. The parties shall agree on the project organization and designate the persons responsible therein.

7 Appointments are normally considered to be approximate. If an appointment is considered as fixed, it shall be based on a corresponding fixed agreement.

Compliance with a deadline shall presuppose that the customer entirely fulfills all of his obligations. If the Services are delayed for reasons for which the customer is responsible, IT DISTRICT may impose any corresponding additional costs on the customer.

8 The location, scope and content of the Services, as well as the duration of the deployment and the number of personnel deployed, shall be determined separately in writing.

9 IT DISTRICT shall plan and report on the Services provided.

3. Rights and obligations of customers

10 The customer shall confirm in writing the Services-related activities of IT DISTRICT personnel.

11 The customer shall ensure that IT DISTRICT or its personnel are able to carry out the Services at their own premises with the necessary aids as well as in cooperation with the agreed and suitable auxiliary staff, and that the preparatory work can be completed on time and as agreed before the start of the Services. Tools and equipment provided by the customer shall be in perfect and reliable condition. The customer shall also take all necessary precautions to prevent accidents as well as to protect of the personnel of IT DISTRICT and the items brought in by IT DISTRICT.

12 If the Services cannot be provided due to force majeure, IT DISTRICT may charge all works done up to that date (including the return journey of the staff).

13 If the Services prove to be not in conformity with the agreement, IT DISTRICT shall remedy the defect at its own expense. The customer may not refuse to accept the Services when the defect proves to be insignificant or is based on circumstances for which IT DISTRICT is not responsible.

14 The customer hereby undertakes not to recruit any employee of IT DISTRICT directly or indirectly during the term of this agreement and for one year after the termination of this agreement, with the result that this employee acts in any way for the customer for remuneration or free of charge or participates in the customer's company. In the event of any violation of this provision, the customer shall pay to IT DISTRICT a contractual penalty equal to six months of the salary of the employee involved and without proof of damage.

4. Calculation of the Services

15 IT DISTRICT shall provide the Services at a fixed price or on the basis of cost with an upper limit applicable to the remuneration (cost ceiling). The types of costs and rates shall be determined in advance in writing. The calculation of the price of the Services according to cost shall be based on the agreed hourly rate for the respective Services at the time the Order is received. If an Order is invoiced according to cost, the written cost estimate may be exceeded by up to 15% of the net Order.

16 Unless otherwise agreed, the Services shall be provided during local working days between 8 a.m. and 5 p.m. Surcharges shall be added for deployments on Saturdays, Sundays and public holidays, as well as on weekdays, between 5 p.m. and 8 a.m.

17 IT DISTRICT will charge a travel package for travel within Switzerland depending on the location of the deployment. The travel package will include travel time and travel expenses. Furthermore, any expenses incurred relating to the provision of Services shall be shown separately and shall also be charged separately.

18 IT DISTRICT shall invoice for the Services provided immediately after the completion of the Order. In case of prolonged deployment of Services, IT DISTRICT shall prepare interim invoices.

19 If the customer is in arrears with the payment of any invoice, IT DISTRICT may defer the fulfillment of its contractual obligations until it has received the delayed payment. Furthermore, the statutory default interest of 5% shall be paid for the period of delay. All taxes, fees and other charges incurred in connection with the Services shall be borne by the customer.

20 If the customer cancels the Services within one month prior to implementation, the customer shall be charged 30% of the agreed fee. In the event of the non-appearance of the customer or an unfounded non-acceptance, or if it is impossible to provide the Services for reasons for which the customer is responsible, then 100% of the costs of the Services shall be charged.

5. Assurances and warranties

21 IT DISTRICT guarantees that the Services provided by it shall have the agreed characteristics. In case of any

defect, the customer may demand rectification free of charge. If IT DISTRICT has not remedied the defect, has not remedied it in time or unsuccessfully, the customer may deduct the corresponding diminution in value from the remuneration.

22 The customer shall immediately notify all defects detected in writing. IT DISTRICT shall be liable for any defects during the period of six months after fulfillment of the Services. The right to assert claims for a defect shall lapse twelve months after the prompt notification of the defect. The guarantee obligation does not exist if a defect is negligible or is based on a circumstance for which IT DISTRICT is not responsible.

23 IT DISTRICT also guarantees that its Services do not infringe any recognized property rights of third parties.

6. Intellectual property rights and know-how

24 The rights and obligations arising from the use of software and hardware that are taken over or purchased from third parties shall be governed by specific general terms and conditions for this purpose and the provisions of the manufacturer or seller and shall be assumed by the customer.

25 Customers shall acknowledge that they are not granted any rights by means of the Services or the use of software products. IT DISTRICT or third-party licensors shall remain the sole holders of the intellectual property rights in all that is provided by IT DISTRICT or created within the scope of these Services.

26 IT DISTRICT is a protected trademark and may not be used by the customer without the prior, explicit and written permission. The trademarks of dealers, including their logos, belong to the respective dealers or, if necessary, to an affiliated company and may not be used without their consent.

7. Liability

27 The liability of IT DISTRICT shall in each case be limited to the total contract value and may not exceed CHF 100,000.

28 Customers may not claim any contractual or non-contractual liability exceeding the warranty service, in particular for so-called consequential damages and/or loss of profit,

or for auxiliary staff or indirect damages. The disclaimer does not apply to damages caused intentionally or through gross negligence. In each case, liability is limited to the total contract value, even in the case of gross negligence.

29 IT DISTRICT shall not be liable for the conduct or for information, services or products of third parties, particularly not of dealers. This includes in particular the availability, completeness, correctness and timeliness of information and the proper functioning or freedom from defects of the products.

30 IT DISTRICT shall also not be liable for the compatibility of the hardware and/or software used with the system environment utilized by customers.

8. Data Protection

31 IT District undertakes to maintain the confidentiality of facts and data that are neither obvious nor publicly available. This obligation shall also be imposed on any third parties involved. In case of doubt, facts and data shall be treated confidentially. The confidentiality obligations exist prior to the conclusion of the agreement and also after the termination of the contractual relationship or after the fulfillment of the agreed Services. Statutory disclosure and information obligations remain reserved.

32 IT DISTRICT undertakes to process data related to client that has been transferred or made accessible to it in the course of providing the Services only to the extent and exclusively for the purposes required for the fulfillment of the agreement. The parties can conclude other contractual agreements, e.g. confidentiality agreements.

33 Advertisements and publications on project-specific Services require the prior written consent of the other party, as well as citation of that party as a reference.

9. Termination

34 Maintenance and Services agreements shall be concluded for a term of twelve months unless otherwise contractually agreed, and may be terminated at the end of the agreed term in writing with a prior notice period of three months. If no termination notice is given, the agreement shall tacitly be extended for a further twelve months.

10. Final provisions

35 Rights and obligations under these GTC or agreed special contractual provisions may only be transferred to third parties with the written consent of the other party. Neither party may offset any claims arising from the present legal relationship against the other party.

36 Should individual provisions of these GTC not be legally effective or unenforceable for legal reasons, the validity of these GTC shall not be affected thereby and the provision concerned shall be deemed to be replaced by an effective provision that corresponds as far as possible to the purpose of the agreement. The same shall apply in the case of a gap for the corresponding gap filling.

37 Substantive Swiss law shall apply, and the Vienna Sales Convention is excluded. The exclusive place of jurisdiction for all disputes arising out of or in connection with these GTC and the place of fulfillment and performance for customers is Cham, Switzerland, absent statutory provisions to the contrary.

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