

## Terms of Service

### 1. Scope of contract / validity

1.1. These terms and conditions apply between us, namely AKITRON eU, Am Schlossberg 348, 8224 Kaindorf, FN 526064z (contractor) and natural and legal persons (client) for the respective legal transaction as well as for all future business, especially also in individual cases for future reorders or reorders was not explicitly pointed out.

1.2. When the contract is concluded, the current version of our GTC applies.

1.3. We only conclude a contract based on our terms and conditions.

1.4. The customer's terms and conditions or changes or additions to our general terms and conditions by the customer require our express written consent to be effective.

### 2. Offer / conclusion of contract

2.1. The offers of the contractor are non-binding.

2.2. Promises, assurances and guarantees of the contractor or agreements deviating from these general terms and conditions in connection with the conclusion of the contract only become binding on the client after written confirmation from the contractor.

2.3. Quotes are made without guarantee.

### 3. Performance / examination

3.1. In addition to the delivery of hardware, the object of an order can in particular be the creation of individual programs, the delivery of library (standard) programs, the acquisition of usage rights for software products, the acquisition of work usage permits, participation in commissioning, telephone calls Advice, program maintenance and other services.

3.2. The development of individual software is based on the type and scope of the binding information, documents and aids provided by the client. This also includes practice-oriented test data and sufficient test options, which the client provides in a timely manner, during normal working hours and at his own expense. If the client is already working in real operation on the hardware provided for the test, the client is responsible for securing the real data.

3.3. The basis for the creation of individual software is the written service description, which the contractor elaborates against cost calculation on the basis of the documents and information made available to him or which the client makes available. This description of services is to be checked by the client for correctness and completeness and to be accompanied by his approval note. Change requests that occur later can lead to separate delivery time and price agreements.

3.4. Individually created software or program adaptations require a program acceptance for the respective program package at the latest four weeks after delivery by the customer. This is confirmed in a protocol by the client (check for correctness and completeness based on the service description accepted by the contractor). If the client allows the period of four weeks to pass without program acceptance, the software supplied is deemed to have been accepted with the end date of the period mentioned. If the customer uses the software in live operation, the software is deemed to have been accepted.

Any defects that occur, that is, deviations from the performance description agreed in writing, must be adequately documented by the client to report to the contractor, who will endeavor to rectify the defects as quickly as possible. If there are significant defects reported in writing, i.e. that the real operation cannot be started or continued, a new acceptance is required after the defect has been remedied.

The client is not entitled to refuse to accept software due to minor defects.

3.5. When ordering library (standard) programs, the customer confirms with the order the knowledge of the scope of services of the ordered programs.

3.6. Should it become apparent in the course of the work that the execution of the order according to the service description is actually or legally impossible, the contractor is obliged to notify the client immediately. If the client does not change the specification of services accordingly or creates the prerequisite that execution is possible, the contractor can reject the execution. If the impossibility of execution is the result of a failure of the client or a subsequent change in the service description by the client, the contractor is entitled to withdraw from the order. The costs and expenses incurred up until then for the work of the contractor as well as any dismantling costs are to be reimbursed by the client.

3.7. The dispatch of data carriers, documentation and service descriptions takes place at the expense and risk of the customer. Training and explanations requested by the customer will be invoiced separately. Insurance is only taken out at the customer's request.

3.8. The client must check the content provided by him for legal, in particular competition, brand, copyright and administrative lawfulness. The contractor is not liable for the legal admissibility of content in the event of slight negligence or after fulfillment of any warning obligation to the customer if this was specified by the client.

### 4. Prices / taxes / fees

4.1. Prices are generally not to be understood as a flat rate.

4.2. All prices are in euros without sales tax and ex warehouse. In particular, the costs of data carriers and any contract fees will be invoiced separately. For services ordered by the client, which are not covered in the original order, there is in any case a right to reasonable remuneration.

4.3. For library (standard) programs, the list prices valid on the day of delivery apply. For all other services (organizational advice, programming, training, conversion support, telephone advice, etc.), the workload is charged at the rates valid on the day the service is provided. Deviations from a time expenditure based on the contract price, which is not the responsibility of the contractor, will be calculated after the actual occurrence.

4.4. The cost of travel, daily and overnight allowance will be charged to the client separately according to the applicable rates. Travel times count as working hours.

### 5. Delivery date

5.1. The contractor strives to meet the agreed dates of fulfillment (completion) as precisely as possible.

5.2. The desired fulfillment dates can only be met if the client provides all the necessary work and documents in full on the dates specified by the contractor and fulfills his obligation to cooperate to the extent necessary. The contractor is not responsible for delivery delays and cost increases resulting from incorrect, incomplete or subsequently changed information and information or documents made available and cannot lead to the contractor being in default. The client bears the resulting additional costs.

5.3. In the case of orders that comprise several units or programs, the contractor is entitled to make partial deliveries or to issue partial invoices.

### 6. Risk

6.1. For the transfer of risk when the goods are sent to the customer, the risk passes as soon as the contractor has the object of purchase, the material or the work ready for collection, he delivers it himself or hands it over to a carrier.

6.2. The client will take out appropriate insurance against this risk. The client approves every normal shipping method.

### 7. Payment

7.1. Unless other agreements have been made, 20% of the remuneration is due upon conclusion of the contract, 60% on delivery and the rest upon completion of the service or at the latest when it is commissioned.

7.3. In the event of late payment, 9.2% points above the base rate will be charged as default interest. If two installments are not complied with in the case of partial payments, the contractor is entitled to allow the deadline to come into force and to make any accepted deliveries due.

7.4. Adherence to the agreed payment dates is an essential condition for the execution of the delivery or fulfillment of the contract by the contractor. Failure to comply with the agreed payments entitle the contractor to cease ongoing work and to withdraw from the contract. All associated costs and loss of profit are to be borne by the client.

7.5. If the payment period is exceeded, the remuneration granted (discounts, discounts, etc.) expires and is added to the invoice.

7.6. The client is obliged to reimburse all necessary and appropriate costs for the collection as well as pre-litigation costs of legal representation in the amount appropriate according to the general fee criteria.

7.7. The client is not entitled to withhold payments due to incomplete overall delivery, guarantee or warranty claims or complaints.

### 8. Copyright / usage

8.1. After payment of the agreed fee, the contractor grants the client a non-exclusive, non-transferable, non-sublicensable and unlimited right to use the individual program for the hardware specified in the contract. All other rights remain with the contractor.

8.2. Insofar as it has been agreed in writing that part of the source code is made available, this only applies to the part of the source code that was individually made for the client. In this case, it is provided in such a way that a trained programmer is able within a reasonable time to rework the source code to further develop the individual part of the software.

8.3. Through the involvement of the client in the production of the software, no rights are acquired over the use specified in the contract. Any violation of the contractor's copyrights will result in claims for damages, in which case full satisfaction must be paid.

8.4. If it is necessary to disclose the interfaces for the production of interoperability of the software, the client must order this from the contractor for a fee. If the contractor does not comply with this requirement and is decompiled in accordance with the copyright law, the results are to be used exclusively for establishing interoperability. Abuse results in compensation.

8.5. If the customer is provided with software whose license holder is a third party (e.g. standard software), the granting of the right of use is based on the license provisions of the license holder (manufacturer).

### 9. Right of withdrawal

9.1. In the event that the agreed delivery time is exceeded due to the fault of the contractor alone or unlawfully, the client is entitled to withdraw from the order in question by registered letter, if the agreed service is not performed to a significant extent within the reasonable grace period and is not at fault of the client.

9.2. Force majeure, industrial disputes, natural disasters and transport closures as well as other circum-

stances for which the contractor is not responsible release the contractor from the obligation to deliver or release the agreed delivery time.

9.3. Cancellations by the client are only possible with the written consent of the contractor. If the contractor agrees to withdraw, he is entitled, in addition to the services rendered and the costs incurred, to charge a cancellation fee of 30% of the unpaid contract value of the overall project.

#### **10. Warranty / maintenance / changes**

10.1. The contractor guarantees that the software fulfills the functions described in the associated documentation, provided the software is used on the hardware described in the contract.

10.2. This is a prerequisite for troubleshooting

- The customer describes the error appropriately in an error message that can be determined by the contractor.

- The client provides the contractor with all the documents necessary for troubleshooting.

- The customer or a third party attributable to him has not affected the software.

- The software is operated under the intended operating conditions.

10.3. In the event of a warranty claim, the improvement has priority over a price reduction or change. In the event of a justified notice of defects, the defects will be remedied within a reasonable period of time, whereby the client enables the contractor to take all measures necessary for checking and remedying the defect. The presumption of the defect according to § 924 ABGB is excluded.

10.4. Corrections and additions for which the contractor is responsible and which prove necessary due to organizational and program-related defects until the delivery of the agreed service are carried out by the contractor free of charge.

10.5. The costs for support provided, diagnosis and fault and fault elimination, which are the responsibility of the client as well as other corrections, revisions and additions are carried out by the contractor's expense. This also applies to the rectification of defects if program changes, additions or other interventions have been carried out by the client himself or by third parties.

10.6. Furthermore, the seller assumes no liability for errors, malfunctions or damage resulting from improper operation, changed system components, interfaces and parameters, the use of inappropriate organizational resources and data carriers, where required, are due to abnormal storage and operating conditions or transport damage.

10.7. The contractor assumes no liability for programs that are later changed by the customer's programmers or third parties.

10.8. If the object of the order is to change or add to existing programs, the guarantee relates to the change or addition. This does not restore the guarantee for the original program.

10.9. Warranty claims expire six (6) months after delivery.

#### **11. Liability**

11.1. The contractor is only liable to the client for damage that can be proven to have been caused by the client only in the event of gross negligence. This also applies mutatis mutandis to damage attributable to third parties that are brought in by the contractor. This restriction also applies to damage to an item that the client has made available to the contractor for processing. In the event of personal injury to the contractor, liability is limited to the maximum coverage of the existing liability insurance. If and insofar as the customer can assert insurance benefits for his liability for damage for which the contractor is liable (e.g. liability

insurance, comprehensive insurance, transport, fire, business interruption, etc.), the customer undertakes to claim the insurance benefits. The liability of the Contractor is limited to the disadvantages that arise for the client through the use of this insurance (eg higher insurance costs).

11.2. Liability for indirect damage - such as loss of profit, costs in connection with a business interruption, data loss or claims by third parties - is expressly excluded.

11.3. Claims for damages become statute-barred according to the statutory provisions, but no later than one year after becoming aware of the damage and the person who caused it.

#### **12. Retention of title**

12.1. The delivered, assembled or otherwise handed over goods remain property of the contractor until full payment.

12.2. The resale of goods is only permitted if the client has informed the contractor in good time, stating the name and address of the buyer, and the contractor agrees to the sale. In the event of approval, the purchase price claim of the entrepreneurial customer is already assigned to the contractor.

12.3. The client must note this assignment in his books and on his invoices until the payment of the price or purchase price has been made in full and must inform his debtors accordingly. Upon request, he must provide the contractor with all documents and information necessary to assert the assigned claims and claims.

12.4. If the customer is in default of payment, the contractor is entitled to demand the reserved goods if the grace period is set appropriately.

12.5. The client must notify the contractor of his assets or the attachment of the reserved goods immediately before the insolvency proceedings are opened.

12.6. The customer expressly agrees that the contractor may enter the place of the reserved goods in order to assert his retention of title.

12.7. The assertion of the retention of title only leads to withdrawal from the contract if this is expressly stated.

12.8. The contractor can utilize the returned goods subject to retention of title in free circulation.

#### **13. Loyalty**

13.1. The contractual partners commit to mutual loyalty. They will refrain from enticement and employment, also via third parties, by employees who have worked on the realization of the orders of the other contractual partner for the duration of the contract and 12 months after the contract has ended. The contractual partner violating this is obliged to pay flat-rate compensation in the amount of an annual salary of the employee.

#### **14. Confidentiality**

14.1. The client also undertakes to treat the knowledge gained from the business relationship with third parties as confidential.

14.2. The client obliges all of its employees to comply with the provisions of Section 6 of the Data Protection Act.

#### **15. Severability clause**

15.1. Should individual parts of these terms and conditions be ineffective, this does not affect the validity of the remaining parts.

15.2. The contracting parties undertake - starting from the horizon of honest contracting parties - to develop a replacement regulation that comes as close as possible to the economic result of the ineffective condition.

#### **16. Other**

16.1. Austrian law applies.

16.2. The UN sales law is excluded.

16.3. The place of performance is the registered office of the contractor.

16.4. The court responsible for the contractor's registered office is agreed as the exclusive place of jurisdiction.