

## **General Terms and Conditions**

### **1. General**

- 1.1 These General Terms and Conditions apply, unless otherwise agreed, to all contracted services and supplies provided by KUERZI Aviation AG (hereinafter referred to as 'contractor' or 'party').
- 1.2 The customer (hereinafter referred to as 'client' or 'party') acknowledges with the written acceptance of the tender or with the conclusion of a contract the exclusive binding nature of the General Terms and Conditions (GTC) drawn up by the contractor. These are an integral part of the tender or the contract that the contractor concludes with the client. They are applicable for the entire duration of the contract and to each individual implementation.
- 1.3 All agreements, subsidiary or verbal agreements, amendments, additions and legally relevant declarations made by the contractual parties will only be valid in written form.

### **2. Subject matter of the contract**

As a rule the tender of the contractor forms the basis. The subject matter of contracts with the contractor usually concerns the maintenance of electronic equipment for aircraft and their ground facilities, and in addition the sale and brokerage of appropriately relevant systems. Furthermore, the contractor can accept engineering and consulting contracts or award such contracts to subcontractors.

### **3. Placing orders / Tenders**

- 3.1 For scope of performance, implementation and deadlines, the stipulations specified in the tender or the contract are decisive. Tenders are binding when they are made in writing. If the client requests supplies, products or services that are not included in the tender, these will be invoiced in addition.
- 3.2 The contractor will send the client the applicable GTC together with the tender.
- 3.3 If the tender is not explicitly limited in time, the contractor will remain bound to the tender for 60 days from the date of the tender.
- 3.4 Up until the signing of the contract or the written acceptance of the tender, the contractual partners can withdraw from the contract negotiations without financial consequences.
- 3.5 Information given by telephone is not binding.
- 3.6 Obvious errors in price lists and tenders, such as typographical, calculation or composite errors, are not binding.

### **4. Contract amendments**

Amendments to the subject matter of the contract on the part of the client must be made known to the contractor in writing (by email or letter) or declared in writing (by email or letter). The contractor will inform the client within 10 days whether or not the desired amendments are possible and what effect they will have on provision of service, deadlines and prices. Any additional costs arising from this will be charged to the client. Charges will be made according to outlay. Such charges will be invoiced separately.

### **5. Purchases**

If the contractor makes purchases on behalf of the client, the client is the contractual partner of the seller. In this case, the contractor is acting as a representative of the client and has no obligations resulting from such purchases.

### **6. Authorization to substitute**

In order to fulfill the contract, the contractor is authorized to call upon other appropriately qualified service providers for support and to place orders with these in the name of and on account of the contractor, insofar as this is not annulled or limited by written agreement of the parties. Such service providers will only be privy to the particular problem to be solved.

## **7. Publication of information and confidentiality**

- 7.1 Each party will retain all rights to plans and technical documentation that are handed over to the other party. The receiving party recognizes these rights and will not provide third parties with total or partial access to such documentation nor use it for any other purpose without prior written authorization from the supplying party.
- 7.2 The parties undertake to treat confidentially all information provided by the other party that is identified as confidential or which may be deemed as confidential according to the circumstances and is neither generally accessible nor in the public domain. In case of doubt, information is considered to be confidential.

## **8. Prices and their settlement**

- 8.1 Prices are defined in the tender or the contract as fixed prices, recommended prices or hourly rates. All prices are net, in CHF (Swiss francs), excluding taxes and duties (value-added tax, customs duties, freight costs etc.).
- 8.2 The services of the contractor will be accounted for according to effective outlay. This also applies to the budget presented in the tender, which takes the status of a non-binding price estimate.
- 8.3 Foreign currencies (dollar, euro etc.) will be converted into CHF at the daily conversion rates applicable when the contractor paid the supplier, and invoiced to the client accordingly, insofar as nothing otherwise has been agreed upon in writing.
- 8.4 Invoices such as Federal Aviation Agency permits, EASA fees and charges, as well as concessions, will be passed on to the client.

## **9. Expenses and their settlement**

- 9.1 Incurred expenses will be accounted for according to outlay (vehicle, journey, meals, overnight stays etc.).
- 9.2 For projects that run over longer periods, expenses will be accounted for every three months.

## **10. Payment conditions**

- 10.1 All prices are given in CHF (Swiss francs) **excluding** value-added tax. Unless otherwise agreed, they apply ex-factory Switzerland or ex-central warehouse Switzerland. As long as not otherwise agreed, 50 % of the tendered price is due for payment when the order is placed. The contractor is first authorized to start work on the order upon full settlement of the down payment. If not otherwise agreed, invoices will be issued monthly, at the latest after acceptance of the subject matter of the contract. Invoices are to be settled within 20 days.
- 10.2 In the case of delayed payment, the client will pay the statutory default interest at the rate of 5 %. In addition, processing costs for any incurred correspondence and collection measures will be invoiced according to outlay.
- 10.3 In the case of delayed payment by the client, the contractor is entitled to carry out outstanding orders only against advance payment, to make the execution of other orders dependent on adequate collateral, or to entirely discontinue work on the subject matter of the contract.

## **11. Additional expenditure**

- 11.1 The client is liable for any additional expenditure arising from delayed, incorrect or missing information or collaborative action that the client is responsible for. The contractor is also entitled, in the case of agreed fixed and recommended prices, to additionally invoice such additional expenditure according to the current hourly rate.
- 11.2 If during processing the necessity should arise of extending the original scope of the tasks to be performed, the contractor is entitled, after prior agreement, to additionally invoice the additional expenditure at the current hourly rate or at a fixed price agreed upon for the case in question.

## **12. Exclusion of set-off claims**

The client is not entitled to make set-off claims.

### **13. Reservation of ownership**

- 13.1 Until full payment of the purchase price, the goods remain in the ownership of the contractor. They may not be sold, hired out, pledged nor assigned as collateral security by the client.
- 13.2 The contractor is entitled to enter the reservation of ownership in the title retention register.

### **14. Delivery deadlines**

All target dates and delivery deadlines provided by the contractor are, unless otherwise agreed upon in writing, only approximate and thus to be considered as non-binding. Even in the case of binding deadline agreements, entitlement to compensation for delayed delivery may only be claimed if there is malicious intent or gross negligence on the part of the contractor. Unavoidable or unforeseeable events and in particular delays on the part of the client discharge the contractor from compliance with the agreed deadlines.

### **15. Standard working times**

The standard working times are 0700 – 1800 on business days. For work that is accomplished in the period between 2000 and 0600, a night-time surcharge of 50 % will be levied. For work on Sundays and public holidays, a surcharge of 100 % will be levied. The surcharge will be levied if the client explicitly wishes the work to be accomplished outside the defined standard working times.

### **16. Shipping and transfer of risk**

The risk is transferred to the client upon readiness for dispatch.

### **17. Place of performance**

In principle, the place of performance of the services performed is the headquarters of the contractor.

### **18. Acceptance**

After advice of the completion of the order and invitation to acceptance made by the contractor, acceptance must follow within one month. If the client declines to cooperate in the acceptance, the contractor can add an extension period of 14 days for the mutual acceptance. If this period elapses unexploited, the order is considered as accepted.

### **19. Notice of defects and remedial action (only with explicit contractual agreement)**

- 19.1 The guarantee of the contractor in respect of defects in goods or defects stemming from the factory is excluded in the context of the legally permissible. If however a contractually explicit guarantee has been agreed upon, entitlement to remedial action or additional delivery may be claimed for recognizable defects that have been ascertained upon acceptance and explicitly notified as such. The subject matter of the contract is accordingly considered to be authorized.
- 19.2 In the case of hidden defects in the subject matter of the contract, the client must inform the contractor in writing immediately after their discovery. If a hidden defect is notified in due time, only then exclusively is there entitlement to remedial action.
- 19.3 With B2B (business to business) transactions, the statutory limitation is limited to **12 months** in the context of the legally permissible. With B2C (business to consumer) transactions the statutory regulations apply.

### **20. Guarantee and exclusion of liability**

- 20.1 The guarantee of the contractor in respect of defects in goods or defects stemming from the factory is excluded in the context of the legally permissible.
- 20.2 Excluded from liability are, in particular, financial losses such as loss of production, loss of effectivity and lost profit, as well as other direct and indirect damage and consequential damage. Entitlement to compensation is in all cases limited to the fee paid. Furthermore, liability for incidental damage (Art. 376 OR of the Swiss legislation on contractual relations) is excluded.

- 20.3 The contractor is liable only for damages arising from negligence that have provably been caused by gross negligence or deliberately. Further liability and liability for auxiliary personnel are explicitly excluded.
- 20.4 The contractor is not liable for services provided by third parties, and also not liable when such services have been commissioned by the contractor.
- 20.5 If the client is solely responsible or jointly responsible for damages or defects, the client may not argue any claim against the contractor. This applies above all to arbitrary amendment and incorrect or negligent implementation of the subject matter of the contract.
- 20.6 Arbitrary amendments and determinations in respect of construction, accounting or implementation made by the client are the sole responsibility of the client.

## 21. Cancellation and premature termination of contract

As long as the work is not completed, the client can withdraw from the contract at any time, against payment of the work already carried out and full indemnification of the contractor.

## 22. Rights

- 22.1 The client is entitled to possible copyrights resulting from collaborative developments that have been developed exclusively for the client. On request, all documentation including transcripts and duplicates must be immediately issued to the contractor. Rights to development, inventions, production processes and all other intellectual property in respect of the subject matters of the contract will remain with the contractor.
- 22.2 Provided that nothing otherwise has been agreed, software (acquired by purchase or created independently of the order in question) that is in the ownership of the contractor and has been employed for processing of the order is not part of the delivery contents. The contractor and the client agree on non-disclosure of details of the contract as well as of confidential information concerning technical, commercial and corporate matters. The obligation to non-disclosure remains applicable after termination of the contract.

## 23. Authorizations

If official authorization (particularly an export license) is necessary for the accomplishment of a contractual service, the contractor will make all required and reasonable provisions for such accomplishment. The client is obliged to cooperate if this is required. If such an authorization is not granted or granted after delay or if a granted authorization is revoked, the client can not derive any claims against the contractor from any of these cases.

## 24. Applicable law and jurisdiction

- 24.1 The contract is subject exclusively to Swiss law with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) (Vienna Sales Convention: SR 0.221.211.1).
- 24.2 The competent authority for dealing with all disputes arising from the contract or in connection with it are the common courts at **the domicile of the contractor's headquarters**. The contractor can however prosecute the client in the jurisdiction of the client's domicile or the client's company's domicile or in any other competent jurisdiction.
- 24.3 In case provisions of contracts concluded on the basis of these General Terms and Conditions are void or impracticable, the applicability of the other provisions is not affected in other respects. The void or impracticable provisions are considered as replaced by what comes nearest to the intended purpose in the legal sense. The same ruling is considered to be applicable for loopholes in the prescribed provisions.