

# General terms and conditions of business

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## A. General provisions

### 1. Scope of application

These General Terms and Conditions (GTC) govern the conclusion, content and execution of contracts concerning

- Supply of IT systems, including software development and procurement of third-party software,
- Software maintenance and
- Advisory and support services.

For the services governed by this contract, special provisions are contained in Section B, and for software maintenance in Section C of these GTC.

### 2. Offer

The offers of ISOLUTIONS on their website, price lists, leaflets and brochures are not binding. Offers made by ISOLUTIONS based on the customer's specifications are binding during the period of time stated in the offer. In the absence of a specification, a period of two weeks from the date of the offer shall apply.

### 3. Definitions

*Individual software:* Software that has been developed for a specific purpose for the customer. This also includes modifications and further developments of any type of software according to the customer's wishes.

*IT system:* IT solution consisting of a plurality of structural and/or functionally interconnected hardware and software components that are pre-existing or are developed or adapted specifically for the customer.

*Standard software:* ready-made software that has been produced with a group of different customers in mind and covers a defined area of application.

*Software development:* Development of software for the customer always results in individual software, but this can be based on or supported by standard software. The object of software development can also be the adaptation and customizing of existing third-party software.

### 4. Scope of services

The services to be provided by ISOLUTIONS, including scheduling and remuneration, are based on the individual contract.

In software development, a distinction can be made between preliminary studies (analysis and conception), realization and introduction, whereby the individual contract can also consist of only one or only a few of these phases. The phases mentioned can also overlap in time. The customer acknowledges that ISOLUTIONS follows an agile development methodology where possible and reasonable - and approved by the customer (see section 5).

Advisory and support services (that are not already covered by the development activity itself) include in particular the support for analysis and design.

### 5. Agile development

If the software development is carried out according to an agile process model, the object of performance is defined in an agile way and the requirements are flexibly adapted to the updated needs. The individual objectives to be achieved in the course of several sprints are described in user stories by the customer (create story) and documented in writing.

Based on these user stories, the corresponding requirements are described with the support of ISOLUTIONS (refine story). Tested and requirements approved by the customer are prioritized in project management ("design ready") and the designs are created based on them.

Review and approval of the design is carried out by the customer. For details on the selected process model and definitions of terms used in the individual contract, please refer to the guide "Der Scrum Guide - Der gültige Leitfaden für Scrum: Die Spielregeln (Version Juli 2016; German version)" (<https://www.scrum.org>).

### 6. Documentation

ISOLUTIONS shall only deliver to the customer the expressly contractually agreed documentation in electronic form.

If documentation is created for the customer, it may be used for the intended use of the software and may also be copied for this purpose.

An update of the documentation in case of subsequent adjustments of the software within the scope of an existing maintenance contract will only be carried out if expressly agreed in writing.

### 7. Additional services to be provided only on the basis of a separate agreement

#### 7.1. Maintenance and support

ISOLUTIONS' contractual obligation to deliver an IT system, especially software development, does not include the obligation to maintain the software. If the customer additionally requests this, a

separate written contract will be concluded with ISOLUTIONS in this respect. For that purpose, the special provisions in section C of these GTC shall be observed additionally. The delivery of subsequent versions of the individual software developed by ISOLUTIONS and/or the third party software procured by ISOLUTIONS, whether as updates or upgrades, is only owed if expressly agreed in writing.

#### 7.2. Source code

The source code of the software developed by ISOLUTIONS shall not be handed over to the customer in the absence of an express provision in the individual contract. If the source code has been handed over to the customer, this shall not affect the rights to the software; these rights shall remain with ISOLUTIONS (see clause 19). In addition, the customer acknowledges that a transfer of the source code by him to a third party requires the express prior consent of ISOLUTIONS.

#### 7.3. Training

ISOLUTIONS shall only provide the training of the customer to the extent that this has been expressly agreed in writing.

### 8. Duties of the customer

#### 8.1 Responsibility of the customer/obligations to cooperate

The customer must, at his own expense, create the conditions within his area of responsibility to enable ISOLUTIONS to fulfill the contractual obligations. The customer's responsibility includes in particular:

- Timely and complete provision of necessary data, documents and relevant information as well as briefing of ISOLUTIONS on operational processes
- Selection of the data to be processed with the aid of the software to be developed or the IT system to be supplied and designation of the volume (data scope/volume structure)
- Creation of the technical, organisational and administrative conditions for the introduction of the IT system or software, in particular
  - Selection, instruction and monitoring of employees and designation of competent contact persons
  - Provision of the necessary own or third-party hardware and software, including telecommunications equipment
  - Creation of measures for the verification of (interim) results
- Ensuring permanent access authorization to all components of the customer's IT system required to fulfill the contractual obligations and providing suitable employees in sufficient numbers to fulfill the customer's contractual obligations to cooperate.

All costs arising from the customer's services are assumed by the customer himself.

With regard to software maintenance, the provisions in Section 29 must also be observed.

#### 8.2 Security measures and data protection

The customer himself is responsible for providing security measures to protect stored data from destruction or misuse and for regularly backing up his data and programs (backup and restore).

#### 8.3 Compliance with formalities

The IT system developed or supplied by ISOLUTIONS must be used in the system environment released by ISOLUTIONS and under the recommended conditions, in compliance with ISOLUTIONS' specifications.

#### 8.4 Consequences of breaches of duty

Delays and additional expenses caused by the customer's failure to properly fulfil its obligations to cooperate shall be borne by the customer.

#### 8.5 Licenses

The customer shall procure or commission ISOLUTIONS in writing to procure the licenses for the use of third-party software required for the operation of the solution on the customer's premises /the IT system via the Internet.

#### 8.6 Rights of use

The rights of use of the contents supplied by the customer (texts, graphics, photos etc.) remain with the customer. The customer is responsible for ensuring that he has the necessary rights of use and that these contents comply with the statutory provisions. The customer shall indemnify ISOLUTIONS from any claims of third parties in this regard.

#### 8.7 Credit for the design (reference)

The customer grants ISOLUTIONS the right to place the discreet notice "realized by isolutions" at the bottom of each solution designed by ISOLUTIONS. ISOLUTIONS is entitled to indicate on its own solution as well as in other communications that it has realized the customer's solution and to establish a direct connection to it by means of hyperlinks.

### 9. Approval of the IT system

#### 9.1 Purpose of approval and responsibilities

The purpose of the approval is to validate that the IT system is functioning properly.

The approval is the responsibility of the customer. ISOLUTIONS commits itself to cooperation. The customer is responsible for the timely provision of the test data and the necessary infrastructure required for the approval procedure.

## 9.2 Approval dates

The parties shall jointly determine the approval date. However, the customer is required to carry out the approval at the latest one month after ISOLUTIONS has notified the customer that the approval can be carried out. If this deadline is not met, the approval shall be deemed to have been carried out successfully.

The approval can also be carried out separately for individual partial services. ISOLUTIONS may demand partial approvals for partial services which can be used economically independently. Successful partial approvals remain unaffected by the result of an overall approval.

## 9.3 Approval certificate

The IT system shall be deemed accepted when the customer has signed the approval protocol and delivered it to ISOLUTIONS. This protocol contains at least the following information:

- Examination subject
- Date or period of approval
- Persons involved
- Description of the defects found and their categorization as significant or insignificant.

In the event of productive use of the IT system or failure to carry out approval in good time (Section 9.2), no approval protocol is required and the IT system is deemed to have been accepted.

## 10. Warranty and obligation to report defects

### 10.1 Legal guarantee

ISOLUTIONS will not knowingly violate the property rights of third parties when providing services.

If the IT system should nevertheless infringe the property rights of third parties according to a court decision, the customer has the right to make changes to the individual software delivered by ISOLUTIONS at his own expense in order to eliminate the infringement of property rights. The customer is not entitled to any claims against ISOLUTIONS which exceed these provisions.

### 10.2 Warranty in kind

ISOLUTIONS guarantees the contractually agreed functionality of the IT system including the software developed by ISOLUTIONS, provided that the customer has fully complied with his obligations and the system environment has remained

unchanged. ISOLUTIONS does not warrant the operability of delivered software in case of changes to the system environment, in particular when using new releases of third party software or when using new hardware.

ISOLUTIONS is not responsible for the eventual operation of the IT system.

The customer acknowledges that malfunctions cannot be excluded even with great care. In addition, ISOLUTIONS cannot guarantee that the IT system can be used without interruption and errors and under any operating conditions.

### 10.3 Notice of defects and warranty claims

The customer must notify ISOLUTIONS of any defects in writing and documented correctly within ten working days after discovery at the latest. Late or unfounded complaints release ISOLUTIONS from the warranty obligation.

During a warranty period of six (6) months from approval, the Customer shall, in deviation from the warranty claims of the Swiss Code of Obligations, have the exclusive right to demand free rectification of defects within a maximum of one month, provided the Customer notifies such defects in writing within five working days of their discovery. Other or further warranty claims are expressly excluded. In connection with the rectification of defects, the customer is required to grant ISOLUTIONS access to the necessary premises and to cooperate free of charge within the bounds of reasonableness.

### 10.4 Exclusion of warranty

The warranty does not apply to defects that are attributable to

- improper operation or subsequent modification of the application and operating conditions without ISOLUTIONS' consent;
- other reasons for which the customer is responsible, in particular the modification of the software, or individual parts thereof, by the customer himself or by third parties not commissioned by ISOLUTIONS
- external causes beyond ISOLUTIONS' control (especially cases of force majeure).

ISOLUTIONS does not assume any warranty for third party products and defects which are due to third party products; in this respect, the warranties of the third party shall apply.

If ISOLUTIONS rectifies defects for which it is not liable under the warranty, the corresponding services shall be subject to compensation and shall be invoiced to the customer at ISOLUTIONS' usual hourly rates.

## 11. Liability

### 11.1. Liability and exclusions

ISOLUTIONS shall only be liable to the customer for damages resulting from the present contractual relationship - regardless of the legal basis - in case of intentional and grossly negligent causation. In any case, liability is limited to compensation for direct damage and to a maximum of 40% of the contractually agreed remuneration.

The liability of ISOLUTIONS for pure financial losses, especially loss of data, as well as for consequential and/or reflex damages such as loss of profit, loss of earnings or production as well as loss of data - regardless of their legal basis - is expressly excluded to the extent permitted by law.

ISOLUTIONS excludes liability for employees and auxiliary persons called in in accordance with Art. 101 Para. 2 OR.

## 12. Compensation

### 12.1. Remuneration according to expenditure

ISOLUTIONS provides the agreed services according to time and effort at the hourly rates agreed in the individual contract. The price or effort information is an approximate estimate and not a fixed price offer.

If, in addition, the remuneration is combined with a cost ceiling, the excess is only permitted with the express consent of the customer. In such a case, ISOLUTIONS commits to informing the customer about exceeding of the cost ceiling as soon as possible.

For work in the Bern region (city and surrounding municipalities), neither travel time nor expenses will be charged additionally. With regard to work at the customer's premises outside the Bern region, travel time shall be considered working time and travel and overnight expenses shall be invoiced additionally.

The value added tax is generally not included in all prices stated in the contract.

### 12.2. Fixed price

If a fixed price has been expressly agreed for the services, this price is based on the principles known at the time the contract is concluded. Should these change subsequently and if this was not foreseeable by ISOLUTIONS, the necessary contract adjustments must be agreed upon with the customer.

### 12.3 Terms of payment

The services rendered by ISOLUTIONS according to expenditure, including expenses, will be invoiced monthly with work reports and are due immediately. The payment period is 30 days from the date of invoice. The work reports are sent to the customer in electronic form within ten working days of the end of the month. The customer must notify any reservations within five working days of receipt, otherwise the report is deemed to be accepted.

Services provided by ISOLUTIONS at fixed prices will be invoiced including the expenses incurred up to the respective date according to the payment plan stipulated in the contract.

### 12.4. Default

The payment dates are fixed dates, which is why a default interest of 5% is due if they are exceeded; no reminder will be sent

## 13. Duration and termination

### 13.1 Entry into force and duration of contract

The date of entry into force and the duration of the contract shall be determined by the individual contract, which may also be concluded in a form-free manner, unless the parties have agreed otherwise.

### 13.2 Termination

Successful software development requires a relationship of mutual trust. If an important reason makes the continuation of the contractual relationship in good faith appear unreasonable, both parties are consequently entitled to terminate the contract without notice. Important reasons are in particular:

- the violation of essential contractual obligations, in particular according to clauses 8, 12, 19 and 32 (obligations to cooperate, remuneration, industrial property rights, confidentiality and data protection);
- the threat of bankruptcy of a party or its bankruptcy or liquidation.

Before termination without notice due to breach of material contractual obligations, the defaulting party shall be granted a reasonable period of time to restore the proper condition. However, we expressly reserve the right to assert any claims for damages that may already have arisen at this time.

With regard to the termination of contracts of a contractual nature, the provisions of Section 22 apply. With regard to the termination of software maintenance contracts, the provisions of Clause 28 must also be observed.

### 13.3 Consequences of termination

The services rendered by ISOLUTIONS up to the time of termination of the contract shall be compensated by the customer proportionally or according to contractually agreed hourly rates.

The parties undertake to return all operating resources, data and documents, including any source code, made available to them within the scope of the contractual relationship, without being asked to do so, and to destroy any copies.

### 14. Changes to services

Both parties can request changes in performance in writing at any time.

The conditions of use and operation of the software/hardware that are valid at the time of the conclusion of the contract can also be adapted.

If the customer wishes a subsequent change in the scope of services within the scope of a "change request", he has to apply for this in writing to ISOLUTIONS. ISOLUTIONS will explain within a reasonable period of time whether it is possible to implement the change and how this will affect the individual contract and the obligation to pay remuneration. The customer shall inform ISOLUTIONS in writing within the set period of time whether the change is to be implemented with the declared effects.

### 15. Dates

The contracting parties shall endeavour to meet the contractually agreed deadlines. The dates set for the performance of ISOLUTIONS' services, especially milestones, shall not be considered expiration dates or fixed dates within the meaning of Articles 102 paragraph 2 and 108 of the Swiss Code of Obligations without express written agreement.

If the customer is responsible for the non-compliance with deadlines, he shall bear the additional costs incurred thereby.

If ISOLUTIONS is solely responsible for the non-compliance with deadlines, the customer shall set ISOLUTIONS in writing a reasonable grace period in relation to the services still to be rendered. After this period has expired, ISOLUTIONS shall be liable for the damages incurred and proven by the customer due to the failure to meet the deadline.

### 16. Third-party intervention

With regard to the fulfilment of the contract, ISOLUTIONS has the right to commission third parties (such as subcontractors, suppliers) to provide services.

### 17. Staff deployment

ISOLUTIONS, as an independent entrepreneur, makes the necessary registrations for itself and its employees with the social insurance companies. The customer therefore does not owe any social security benefits (AHV, IV, ALV, etc.) or other compensation for ISOLUTIONS employees (especially for accident, disability and death).

### 18. Non-compete clause ("employee poaching")

The parties undertake not to entice away any employees (salaried and freelance) from each other during the term of the contract and within one year after termination of the contract. If one of the parties breaches this obligation, it shall owe the other party a contractual penalty in the amount of the net annual salary agreed with the targeted employee. However, the right to assert additional claims for damages is expressly reserved. The payment of the contractual penalty does not release from the compliance with the present non-compete provision.

### 19. Intellectual property and rights of use

Upon full payment of the agreed remuneration, the customer shall receive a

- non-transferable,
- indefinite,
- non-exclusive,
- geographically unrestricted right of use.

In all other respects, all rights to services created within the framework of the contract performance (including documentation, program documents, computer programs etc.) remain with ISOLUTIONS. In any case, ISOLUTIONS shall remain entitled to further develop, change and improve all created services, especially software and software parts, and to use them accordingly for the provision of the same or similar services for third parties.

For any software provided by isolutions within the scope of the contract performance, the rights of use according to the separate license agreements of the legal owner of the third party software apply.

### B. Supplementary provisions for services of a contractual nature

#### 20. Applicability of contract law (OR 398 ff.)

Certain services to be provided by ISOLUTIONS, especially software maintenance, consulting and support, are of a contractual nature (OR 394 ff.).

#### 21. No strict liability

ISOLUTIONS undertakes to fulfil the contract carefully and competently, and guarantees that the

services are in accordance with the state of the art at the time of the conclusion of the contract. According to the rules of contract law, there is no strict liability and the warranty claims according to clause 10 do not apply.

## **22. Termination**

If the individual contract exclusively concerns services of ISOLUTIONS, which are of a contractual nature, each party has the right to terminate the contract in writing at any time with immediate effect. However, a termination may not be made at an inopportune moment, which is why, in case of a termination by the customer, the current status of services already provided and arranged must be taken into account. With regard to the consequences of termination, the provisions set out in clause 13.3 shall apply.

With regard to contracts in connection with software maintenance, termination shall be governed by the provision in Section 28.

## **C. Supplementary provisions regarding software maintenance**

### **23. Care services**

Upon conclusion of a corresponding software maintenance contract, ISOLUTIONS undertakes to free the software defined as maintenance object in the maintenance contract (hereinafter referred to as maintenance object) from possible defects (corrective software maintenance). The maintenance of the object of maintenance at the latest technical level through further development and delivery of corresponding releases is only owed if this has been expressly agreed in writing.

### **24. Readiness and reaction time**

ISOLUTIONS provides its care services during the availability period described in the care contract. Unless otherwise agreed, the on-call period lasts from Monday to Friday from 08.00 - 12.00 hours and from 13.30 - 17.30 hours CET. During this period, ISOLUTIONS accepts fault reports and carries out maintenance work.

The response time defined in the maintenance contract is the time between receipt of the fault message at the defined SPoC (Single Point of Contact) until an initial response is sent to the customer by telephone or e-mail.

Sundays and public holidays (such as New Year's Day, Good Friday, Easter, Easter Monday, Ascension Day, Whitsun, 1 August, 25, 26 and 31 December) are outside the availability period.

## **25. Compensation**

Unless otherwise agreed, the effective expenses for the rectification of a malfunction will be invoiced according to the agreed hourly rates.

For maintenance services that the customer wants to use outside of the on-call period or within a shorter reaction time than agreed in the maintenance contract, ISOLUTIONS will invoice - independently of an agreed flat rate - according to the agreed hourly rates.

## **26. Place of performance**

Insofar as maintenance work can be carried out by telephone or via direct online access to the object of maintenance, the customer has no claim to the execution of the work on site. The customer is required to take all reasonable measures to exclude the necessity of on-site work as far as possible.

## **27. Warranty**

ISOLUTIONS does not guarantee that the correction of a program error will exclude the occurrence of other program errors.

If the software maintenance contract was preceded by a contract regarding the delivery of an IT system, for which ISOLUTIONS is liable to warranty, bug fixes within the existing warranty period remain unaffected by the maintenance contract.

In case of changes, extensions, adaptations of the source code or the database structure by the customer or a third party, all warranty claims against ISOLUTIONS expire.

## **28. Duration and termination**

If software maintenance contracts are concluded for a certain period of time, these are to be understood as contracts with a minimum duration and are automatically extended by a further calendar year in each case, provided that neither of the parties makes use of the subsequent termination option.

In the case of contracts with a minimum duration, both parties are entitled to terminate the contract with a notice period of six months to the end of a corresponding period.

## **29. Obligations to cooperate**

- The customer must create the prerequisites for ISOLUTIONS to be able to provide the maintenance services, this especially includes granting access to the object of maintenance
- Provision of machine time
- Documentation of error messages.

The customer also undertakes, before requesting maintenance services from ISOLUTIONS, to use the tools made available to him to diagnose fault messages and to eliminate them.

Furthermore, the customer assures that there are no third party rights to the object of care, which conflict with the fulfilment of the contract by ISOLUTIONS.

## **D. Final provisions**

### **30. Contact persons**

The contractual partners shall each appoint at least one responsible contact person for all questions in connection with the execution of the contract, who can make and receive legally binding declarations.

### **31. Settlement**

The offsetting of the customer's claims against those of ISOLUTIONS requires the written agreement of the parties.

### **32. Confidentiality and data protection**

#### **32.1 Confidentiality**

The parties mutually undertake to maintain confidentiality regarding the financial, organisational or personal data of the contracting party. This obligation does not apply to data that is generally known or accessible. The customer acknowledges that the structure of computer programs and the source code constitute trade secrets and he undertakes accordingly not to make these accessible to unauthorized third parties. These obligations shall remain in force as long as a legitimate interest exists, even after the termination of the contractual relationship.

#### **32.1 Data protection**

The parties undertake to comply with the provisions of Swiss data protection legislation. In the performance of the contract, ISOLUTIONS may, under certain circumstances, have to rely on the assistance of affiliated companies and/or subcontractors in Switzerland and abroad in order to fulfil its contractual performance obligations. The customer agrees that to this extent a cross-border data transfer and data processing may take place abroad, provided that:

- the services are provided from countries or in countries that have data protection legislation at least equivalent to that in Switzerland; or
- (i) ISOLUTIONS has concluded a written agreement in accordance with the "EU Standard Contractual Clauses" with the affiliated company and/or subcontractor consulted abroad in the case of cross-border data transmission and processing in countries that do not have data protection equivalent to that in Switzerland

And (ii) ISOLUTIONS shall inform the customer in writing in advance.

The customer is solely responsible for providing any necessary information to the persons concerned (persons whose data are being processed) and for obtaining any necessary consent from the persons concerned.

### **33. Contract amendments, contradictions and partial invalidity**

Amendments and supplements to the individual contract must be made in writing, if the contract has been concluded in writing (cf. section 13.1).

In the event of contradictions between the individual contract, the GTC and the offer, the provisions of the individual contract take precedence over those of the GTC and the latter over those of the offer.

If individual provisions of the GTC or the individual contract prove to be invalid, the validity of the GTC or the contract shall not be affected. In such a case, the provision in question will be replaced by an analogous, economically equivalent provision.

### **34. Assignment and cession**

The customer may not assign or transfer claims against ISOLUTIONS without their written consent.

### **35. Place of jurisdiction and applicable law**

Exclusive place of jurisdiction is Bern. Swiss law is exclusively applicable