

General Terms and Conditions

As of: 01.01.2021



§1

Scope of Application Defense Clause

(1) For the contracts concluded between AKI Consulting GmbH & Co. KG (hereinafter referred to as the "Contractor") and its customers, the following General Terms and Conditions of Business shall apply in the version valid at the time the contract is concluded.

(2) For contract extensions, the General Terms and Conditions valid at that time shall apply from the time the respective extension comes into force.

(3) General terms and conditions of the client that contradict or supplement the clauses mentioned here will be rejected - unless they are explicitly part of the contract.

§2

Reservation of Ownership

(1) By AKI Consulting GmbH & Co. KG shall remain the property of AKI Consulting GmbH & Co. KG UNTIL FINAL PAYMENT.

(2) Any goods delivered by AKI Consulting GmbH & Co. KG, including digital contents generated by AKI Consulting GmbH & Co. KG within the scope of a project activity for the customer, including - but not limited to - software, texts, audio, video and graphic contents as well as design elements, shall remain the property of AKI Consulting GmbH & Co. KG; furthermore, the copyright shall remain unaffected. This shall not apply to digital content that contains specific information about the customer exclusively. These shall become the property of the customer.

§3

Default Interest Expiry Clause

(1) As far as AKI Consulting GmbH & Co. KG has granted a customer an instalment payment for the settlement of a debt, default shall occur immediately after the cut-off dates specified in the instalment payment agreement.

(2) If the customer, as the debtor, is in default, default interest in the amount of 5% above the base interest rate shall be due immediately.

(3) If the debtor is in default with two or more successive instalments, the instalment payment agreement shall expire and the total amount shall become due immediately. Likewise, interest on arrears shall accrue from this point in time on the entire remaining amount at a rate of 5% above the base interest rate.

§4

Disclaimer of Liability

(1) The AKI Consulting GmbH & Co. KG shall not assume any liability for damage caused by software used by the customer.

(2) The customer undertakes to indemnify any software used by AKI Consulting GmbH & Co. KG prior to use in its productive environments in order to ensure the suitability of the software.

(3) For the purpose of testing the software, the Contractor undertakes to use a system dedicated to this purpose ("Sandbox"), in which even a case of accident shall not cause any damage other than a reset to the original state.

(4) Resetting the sandbox in the event of an accident is the responsibility of the Customer.

§5

Prohibition of Offsetting

(1) The customer shall only have a right of set-off if the claim has been legally established or has been accepted by AKI Consulting GmbH & Co. KG has been recognized.

(2) An undisputed claim shall not constitute tacit acknowledgement.

§6

Service Contracts Definition Contract Period Renewals

(1) Project orders, consulting contracts and contracts for the implementation of specifications desired by the client are exclusively executed as service contracts.

(2) Work contracts are rejected.

(3) Unless otherwise agreed upon in the contract, the following hourly rates will be applied for the assignment:

- Junior Consultant / Junior Architect 95,- € / h
- Senior Consultant / Senior Architect 150,- € / h
- Principal Consultant / Principal Architect 220,- € / h

(4) If no term is agreed in the contract, the contract is limited to a period of six months and is automatically renewed unless it is terminated at least three months before expiry.

(5) An extension of the contract always requires the active consent of AKI Consulting GmbH & Co. KG. Extension offers subject to a condition precedent ("Options") shall be rejected.

License Contracts
Definition
Contract Period
Renewals

(1) Licence agreements are concluded for services provided by AKI Consulting GmbH & Co. KG within the framework of a project contract and used by the Licensee.

(2) License agreements shall have a minimum term of one year, unless otherwise agreed.

(3) If a licence agreement is not terminated within three months prior to its expiry, it shall be extended by a further year.

(4) If a license agreement expires, the use of the contents licensed therein is no longer permitted.

(5) Permanent license agreements are exempt from the restrictions of sentences 2 to 4. The licensee is hereby granted an unlimited, irrevocable license to use the licensed subject matter of the agreement.

Maintenance
Contracts

(1) Maintenance contracts shall be concluded for the maintenance of the equipment used by AKI Consulting GmbH & Co. KG and licensed by it.

(2) Maintenance and license agreements may be concluded as a unit. In this case, the provisions of §§ 7 and 8 shall apply to those parts of the agreement that are part of the category assignable to these paragraphs.

(3) Maintenance contracts have a minimum term of six months, unless otherwise agreed.

(4) If a maintenance contract is not terminated within three months before its expiry, it shall be extended by a further six months.

Price Adjustments

(1) The AKI Consulting GmbH & Co. KG shall be entitled – insofar as not explicitly excluded in the contract – to implement an annual price increase of up to 5% for contracts with a term of at least one year, after the expiry of one year, without the need for a separate agreement. A special right of termination of the client remains unaffected by this.

Delegation Sovereignty

(1) The AKI Consulting GmbH & Co. KG shall be entitled to provide an adequate replacement in place of a specific consultant. This shall apply both temporarily and permanently. Any wishes of the customer regarding a specific person shall be taken into account in the selection process, but shall not constitute a mandatory condition.

(2) The client is entitled to cancel the appointment of a specific consultant if there are objective reasons. The AKI Consulting GmbH & Co. KG shall also be entitled in this case to send an adequate replacement. In particular, this shall not affect the consultancy agreement as such.

(3) In the event that a consultant of AKI Consulting GmbH & Co. KG shall also apply (1). AKI Consulting GmbH & Co. KG.

(4) The customer shall not be entitled to claim the posting of a replacement in the event of the incapacity to work of a consultant.

Loss of Service for Which the AKI Consulting GmbH & Co. KG Is Accountable

(1) If AKI Consulting GmbH & Co. KG is not able to provide the work performance owed to the contractually agreed extent, either in whole or in part, for reasons for which it is responsible, but which are not due to gross negligence or intent, it shall be released from any contractual penalties that may have been agreed.

(2) The client is entitled to use a substitute elsewhere for the time of the failure. The client shall bear the expense of finding a replacement.

(3) If a business trip is required for a replacement in accordance with (2), AKI Consulting GmbH & Co. KG shall only bear the additional costs compared to a corresponding business trip when using its own consultants in cases where a business trip was planned anyway.

(4) If the replacement in accordance with (2) is purchased at higher amounts, these additional costs shall be borne by the customer.

Loss of Service for Which the Client Is Accountable

(1) If AKI Consulting GmbH & Co. KG is not in a position, either in whole or in part, to provide the services owed by it within the contractually agreed scope for reasons for which the customer is responsible, it shall be entitled to invoice the hours of work thus lost or, alternatively, to claim damages. This corresponds to a default of acceptance according to §615 BGB.

(2) AKI Consulting GmbH & Co. KG shall be obliged in such cases to make use of all reasonable possibilities, yet to work productively for the customer.

(3) Should the possibilities mentioned under (2) require a business trip or a change of location,

- a) this takes place only with the consent of the client
- b) is AKI Consulting GmbH & Co. KG shall be entitled to invoice 100% of the working time spent on the special trip and
- c) to settle the terms and conditions agreed for business trips or relocation, and
- d) to charge additional costs for short-term assignments to the client

(4) AKI Consulting GmbH & Co. KG shall not be obliged to perform its work elsewhere in cases pursuant to (1), in deviation from §615 BGB (German Civil Code), but shall attempt to do so.

(5) In the event that a consultant affected by the loss of work can be temporarily employed elsewhere in accordance with (4), only the difference by which the invoice amount of AKI Consulting GmbH & Co. KG for the replacement employment is less than the amount that would actually have been invoiced.

(6) Invoicing for work performed for other customers for the use of consultants who were not originally intended for use by the customer in accordance with (1) cannot be offset against the loss.

Right of Designation

(1) The AKI Consulting GmbH & Co. KG reserves the right to publish the name of the customer, the subject matter of the project and general information about the project that does not constitute trade secrets of the customer in the profiles of its consultants as soon as the project is completed or the commissioning of AKI Consulting GmbH & Co. KG for the respective project has been completed.

(2) AKI Consulting GmbH & Co. KG reserves the right to use the business relationship for advertising purposes. Details about the nature of the respective project shall not be disclosed.

(3) Consultants of AKI Consulting GmbH & Co. KG shall be granted the right to refer to the name of the customer in their profiles and CVs as well as to present a brief, harmless description of their activities in the project, provided that no detailed internal project information is sold. This also includes the right to disclose the system environment and tools used, about which the consultant has special knowledge and has applied it there, as well as the role in the project that the consultant has taken on.

Place of Jurisdiction

(1) Place of jurisdiction for disputes with non-consumers is Hof, Saale (Bavaria, Germany).

(2) For disputes with consumers, the place of jurisdiction shall be in accordance with Art. 23 EuGVVO (Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters) if applicable, otherwise in accordance with § 307 BGB.

Severability Clause

(1) Should parts of these GTC be invalid by law or become invalid in the future, the remaining parts of these GTC shall remain unaffected and shall retain their validity.

(2) The parts that have become invalid according to (1) shall be replaced by the legally permissible provision that corresponds to the intention of AKI Consulting GmbH & Co. KG as expressed in the wording.

(3) If parts of these GTC should contradict an individual agreement, the parts that are free of contradictions shall remain valid. The parts that are subject to contradiction shall be replaced by the provision made in the individual agreement.