

# General Terms and Conditions of AOE GmbH

## A. General part

### §1 Scope

- (1) The following General Terms and Conditions contain the conditions exclusively applicable between the customer and AOE GmbH, Kirchgasse 6, 65185 Wiesbaden – hereinafter referred to as “AOE” – for use of the services of AOE by the customer if and insofar as they have not been amended by individual agreements between the parties. The terms and conditions contained hereunder in section A shall apply for all services of AOE, and the special terms and conditions contained hereunder in the sections B. – F. shall apply additionally for individual services. AOE concludes contracts with commercial customers, i.e. companies pursuant to art. 14 German Civil Code, exclusively. It does not conclude contracts with consumers pursuant to art. 13 German Civil Code.
- (2) AOE does not accept conditions of the customer conflicting with or deviating from the present terms and conditions unless AOE expressly agreed with its validity beforehand.

### §2 Conclusion of Contracts

- (1) Orders placed by the customer shall be deemed binding at any time. By the customer placing an order, the General Terms and Conditions are deemed accepted by the customer. The contract is concluded only after receipt and according to the content of a written order confirmation (including by fax) by the customer on the basis of AOE’s offer.
- (2) The features of the object of services are described conclusively in the offer.

### §3 Scope of Service / Performance Dates

- (1) AOE renders various services such as consulting, conceptual design, development (web, software, etc.) hosting, support, maintenance, SaaS, etc. Such services are described in more detail in the “Special terms and conditions” hereunder as well as within the order confirmation of SOW (Statement of Work) and the associated specifications. The delivery or performance dates are also agreed upon within the scope of order confirmation of the SOW.
- (2) Observing delivery deadlines or deadlines for rendering of services agreed upon in writing requires the customer to provide any and all information required for delivery or rendering of services in due time, including but not limited to rendering the cooperation incumbent upon it. Otherwise, the delivery term or term for rendering of services is extended appropriately.
- (3) AOE is entitled to provide reasonable partial delivery and partial performance.

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## §4 Changes / Acceptance

- (1) If the customer subsequently requires a modification of the originally defined service during the course of AOE rendering such services, it shall notify AOE immediately in writing via e-mail, stating the reasons for it. After receiving a request for modification, AOE shall check if the required modification is feasible and subsequently inform the customer of the changes presumably resulting from it, including, but not limited to, with regard to remuneration and schedule. Possible expenses incurred by checking the request for modification and the consequences resulting from its execution shall be reimbursed separately. The parties then shall coordinate the execution of the suggested modification of service and the possible effect on delivery term and remuneration. Unless provided otherwise – e.g. by agreeing on service quota – AOE is obliged to execute a modification of services only upon written consent to such modification. If no written agreement is reached on a request for modification, the contract shall be fulfilled without the modifications requested in the relevant request for modification.
- (2) Assignments with the object of essentially the delivery of a work to be produced by AOE are subject to German legislation concerning works and services, implying that the relevant legal provisions for acceptance apply. In such case, the customer shall immediately check the performance rendered for its conformity with the contract. If the customer confirms conformity of the performance rendered with the contract in such check, it shall immediately but the latest within 14 days (“term of acceptance”) after receipt of the respective performance notify AOE in writing of its acceptance. The acceptance may not be refused by reason of negligible defects. If the acceptance is not given within the term of acceptance, the relevant performance shall be deemed accepted. Furthermore, the acceptance shall always be deemed given as soon as the customer uses the delivered performance in the course of its business. After acceptance, AOE shall render remedy of defects only within the scope of liability for defects.

## §5 Rights of Utilisation

### 1. Definitions

- a) “Results” pursuant to this agreement include but are not limited to coding in object and source code form, data pools and data bases, user and program documentation and user manuals, any and all script coding, designs, drafts, procedures, specifications, reports and concepts.
- b) “Individually prepared results” are the results, or such components of results prepared by AOE within the scope of the contract based on specific agreements in text or written form with the customer, e.g. service level agreements (with intervention of third parties if required). They do not include integrated standard results of AOE or third parties.
- c) “Standard results” pursuant to this contract shall be any and all results or components subject to this contract not developed on the basis of a specific contract with the customer.

### 2. Granting Rights

- a) As of the date of full payment, the customer shall be granted the exclusive, transferable and irrevocable right of utilization in perpetuity throughout the world in all media known or hereinafter devised to the results individually prepared for the customer by AOE if they have been ordered separately according to 1. b). The customer is entitled to copy, process, refine and enhance the results. AOE is granted the right to utilize and process such results for the purpose of the contract.

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- b) AOE shall grant the customer a non-exclusive, non-transferrable right of utilization for the standard results relinquished within the scope hereunder. All other rights to the standard results and subsequent additions shall remain with AOE or the original licensor of the standard results.

### 3. Results of Third Parties / Open Source

The use of third party results or open source software shall be subject to the respective license terms and conditions of the respective rights holder exclusively. On request, the license terms and conditions shall be provided separately as well. If the licensee has obtained the open source software directly from the licensor, it shall obtain the license terms and conditions directly from the rights holder as well.

### §6 Warranty for Defects and Warranty of Title

- (1) The customer shall immediately notify AOE of defects occurring in writing, providing all information available to the customer and expedient for remedy of the defects.
- (2) In the event of material defects or deficiency in title occurring, the customer shall be entitled to demand supplementary performance, to withdraw from the agreement after failure of the supplementary performance, to reduce the purchasing price or to assert claims for compensation in the event of fault on AOE's part to the legally admissible extent. AOE is entitled to rectification of defects or subsequent delivery within the scope of supplementary performance at its discretion. Claims for material defects or deficiency in title shall fall under the statute of limitation of 12 months.
- (3) AOE's warranty obligation shall not apply in any cases in which defects and other impairments of the services have been or may have been caused by interference by the customer, services to be rendered by them (including but not limited to data and content) or by the system environment existing at the customer's premises AOE is not responsible for unless and to the extent that the customer is able to provide evidence that it has not caused the defect. Services of AOE rendered due to an alleged warranty obligation shall be invoiced on an expense's basis.
- (4) AOE assumes no liability for open source components. AOE is not responsible for content (e.g. software code, images) provided by the customer within the scope of the obligation to cooperate and, in particular, is not obliged to check it for any legal violation.

### §7 Prices / Payment Conditions

- (1) Services of AOE shall be reimbursed according to the individual contractual determination in the order confirmation and invoiced by AOE. The prices are net plus possible expenses and applicable value-added tax.
- (2) Monthly remuneration for AOE's services hereunder on a time and material basis defined in SOW per person day plus additional costs (i.e. travel expenses as approved).
- (3) If payment is not received within 30 days as of the invoice date, AOE is entitled to assert claims for default interest and compensation for damages caused by the default in excess thereof.
- (4) In the event of default of more than 25% of an individual claim or more than two monthly payments and after expiration of an additional respite of 14 days to be set by AOE as well as

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notification of impending suspension, AOE is entitled to suspend and/or deactivate the delivered work items or internet presence or the hosting.

- (5) The customer may set off payment only against such claims that are undisputed, legally established or disputed but ready for decision. The customer only is entitled to a right of retention if it is based on the same contractual relationship.

## §8 Liability

- (1) Liability of AOE for wilful intent, gross negligence, warranted characteristics, claims pursuant to the German Product Liability Act and injury of life, body or health shall be subject to the applicable legal provisions.
- (2) In the event of slight negligence, AOE shall be liable only in the event of breach of material contractual obligations (so-called material contractual obligations (Kardinalspflicht), e.g. such obligation the fulfilment of which actually makes proper execution of the contract possible in the first place and for which the contractual partner relies upon compliance regularly and may rely upon). This is limited to the typically foreseeable damage, but always to EUR 100,000 per case of damage, a total of EUR 250,000 per year. The total upper limit of liability for such material contractual obligations violated by simple negligence is EUR 500,000.
- (3) AOE shall not be liable for any indirect damages or consequential damages (including but not limited to loss of profits). The limitation of liability set down in this paragraph 2 shall not apply in the event of liability of AOE according to paragraph 1.
- (4) Claims for damages of the customer are excluded if the damage had not occurred in case of proper data backup in the customer's field of responsibility. Proper data backup may be assumed if the customer demonstrably backs up its data pools at least once a week in a machine-readable form, ensuring that such data may be restored with reasonable effort. Furthermore, liability for loss of data shall be limited to the usual expenses of restoration incurred where regular backup copies according to the risk involved have been prepared, excluding wilful intent and gross negligence. Such provision shall not apply if the customer has commissioned performance of data backup within the scope of managed hosting.
- (5) If and insofar as an event of Force Majeure has occurred, AOE is not obliged to render the services. Force Majeure shall include but not be limited to strike, war, natural disaster, lockout, pandemic, delay or failure of delivery by suppliers if caused by a Force Majeure event, official decree or court order, attacks from the internet and users of the application itself (e.g. viruses, worms, "denial of service attacks", Trojans) that AOE may not have prevented even using the care and diligence reasonable depending on the event's circumstances.

## §9 Published Content

- (1) The customer is obliged to comply with applicable telecommunications and media legislation and other relevant legal provisions in connection with using AOE's services, including but not limited to
  - not misusing AOE's service, including but not limited to not infringing upon third party rights, e.g. personal rights;

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- not offering information with illegal or immoral contents, including but not limited to not offering information calling for racial hatred, glorifying or trivialising violence pursuant to art. 131 German Criminal Code, being sexually offensive, being pornographic pursuant to art. 184 German Criminal Code, glorifying war, being fit to seriously put children at risk morally or impair their well-being. Furthermore, harassing and threatening third parties by virus attacks, chain mail and misuse of AOE's services for intrusion upon the safety measures of a third-party network, host or account (cracking, hacking, port scans and denial of service attacks) shall be prohibited. In the event of culpable non-observance of such provision, AOE is entitled to immediately block such content without the customer being entitled thereupon to reduce the remuneration to be paid;
  - not offering illegal software or other contents that are protected by copyright and/or ancillary copyright and/or relevant pursuant to provisions of the German Criminal Code. The customer's obligations shall include but not be limited to not making any works protected by copyright available to the public;
  - in case of contents subject to the German Act on protection from publications harmful to minors or obviously fit to seriously put children at risk morally or impair their well-being, taking measures by technical means or in other suitable manner making sure that transmission or acknowledgement by minor users is excluded;
  - providing a customer identification (legal notice) on the WWW presence directly retrievable from a main overview conforming to legal requirements, including but not limited to those of the German Broadcast Media Act [Telemediengesetz, TMG].
- (2) The customer is solely responsible for the contents of the information offered; AOE does not check the contents in advance. The customer shall hold AOE harmless for any and all costs incurred by it due to breaches of the customer of such contractual and legal provisions. AOE is entitled to immediately block contents breaching these general terms and conditions or applicable law.

## §10 Contract Duration and Termination

- (1) The respective contract duration – if relevant – is set down in the order confirmation of the SOW. Unless agreed otherwise, the contract is concluded for a term of 12 months and takes effect as of receipt of the order confirmation by the customer. It is extended automatically by another 12 months if it is not terminated by one of the contract parties to the end of the respective contract duration, observing a period of notice of three month.
- (2) AOE is entitled to modify the present terms and conditions if required by developments not in AOE's control, not brought about by AOE and unforeseeable at the time of execution of the contract in order to restore the balance between the parties existing at the time of execution of the contract and if material provisions of the contract (e.g. type and scope of the contractually due performance, termination) are not affected by it. Modifications of these general terms and conditions are admissible as well if difficulties caused by gaps in these terms and conditions occur when executing the contract, e.g. by legislation deeming a clause to be ineffective. Modifications to the terms and conditions shall be notified to the customer in writing 4 weeks prior to them taking effect. In such event, the customer is entitled to extraordinary termination. If the customer does not terminate the contract within four weeks as of receipt of the modification notification, the modifications shall be deemed agreed. This fact shall be brought to the customer's attention again within the modification notification.

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- (3) The right of both contract parties to terminate the contract for cause without notice shall remain unaffected.
- (4) In the event of termination without notice for cause, AOE is entitled to block the rendered service with immediate effect. As of the time of blocking the customer shall be released from its obligation to pay the agreed remuneration. However, its obligation for payment of services rendered prior to the termination taking effect remains unaffected.

### §11 Business and Trade Secrets

- (1) The contracting parties undertake to treat as confidential all knowledge of the contracting party's business secrets obtained in the context of the contractual relationship. AOE is entitled to provide licensed programs with protective devices against improper use.
- (2) For the duration of the project and for 12 months after termination or completion, the customer undertakes not to actively poach any employees from AOE who are involved in the provision of the service; There is no violation of this regulation if employees work for the customer in the context of a temporary employment contract (Part D).

### §12 Data Protection

- (1) The personal data provided by the customer (name, address, email address, telephone number, fax number, date of birth, etc.) are processed within the framework of the statutory provisions of data protection law, in particular those of the General Data Protection Regulation (GDPR) and the Federal Data Protection Act (BDSG) as well as the Telemedia Act (TMG). The personal data communicated by the customer, insofar as this is necessary for the establishment, content or modification of the contractual relationship (inventory data), is used exclusively to process the contracts concluded between the customer and AOE
- (2) The contractual partners undertake to conscientiously fulfill and observe all data protection regulations. If the customer violates these provisions, he releases AOE from all legal consequences of the violation. If AOE is to process personal data on behalf of the customer, the contracting parties will conclude an agreement on order processing in good time before commencing the corresponding activity.

### §13 Final Provisions

- (1) If a provision hereunder is or becomes ineffective, the effectiveness of the rest of the contract shall remain unaffected. The ineffective provisions shall be replaced by the appropriate legal provisions.
- (2) The contractual relationship shall be subject to German law exclusively, excluding the United Nations Convention on Contracts for the International Sales of Goods.
- (3) Exclusive place of jurisdiction for all disputes arising from the contractual relationship shall be Frankfurt am Main.
- (4) AOE can also sue at the customer's registered office.

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## B. Special Terms for Webhosting und SaaS

- (1) AOE offers the customer services from web hosting to Software as a Service (SaaS). Details will be determined in the respective offer (SOW). AOE and the data center that AOE uses to provide services regularly carry out maintenance work. The customer will be informed of the maintenance window with a reasonable lead time. While maintenance work is being carried out, the services commissioned may not be available to the customer or only to a limited extent. This period is not taken into account at the expense of AOE when calculating the availability of an application or a system. Also not taken into account in terms of availability are times in which the platform and / or the products and / or services due to technical or other circumstances that are beyond the control of AOE (e.g. force majeure, disruptions in the telecommunications lines,) cannot be used or can only be used to a limited extent.
- (2) A guarantee or warranty that the server is suitable or available for a specific service or specific software does not exist unless expressly agreed in the offer. AOE does not provide any support to the customer for software products that are not offered by AOE or approved for operation. AOE is not liable for disruptions within the Internet. If the guaranteed availability is not reached, AOE grants a credit note in the amount of a day's remuneration (1/30 monthly rent) for every 24 hours or part of the respective availability period, however a maximum of 50% of the respective monthly remuneration - further claims are excluded, unless there is intent or gross negligence.
- (3) At termination of the contract, AOE is entitled to delete all data transmitted to the server by the customer after expiration of a period of 14 days.
- (4) In the event of an error occurring within AOE's control, AOE generally is providing support from Monday to Friday from 9:00 am to 6:00 pm excluding federal public holidays ("service time") in addition to the guarantee. Based on the customer's notification, such on-call service triggers the appropriate response of AOE after rough inspection of the notification. AOE allocates the notifications to priority groups.
- (5) The description of the various services and the management of defects may be taken from the specification – SaaS, hosting, maintenance and support.

## C. Special Terms for Software Development and Webdesign

- (1) AOE renders planning and execution services in the field of consulting, software development and web development, etc. based on the customer's specifications.
- (2) If the client's requirements are not yet derived from the task in accordance with the contract, AOE will detail them with the client's support, create a detailed concept and submit it to the client, who should approve it within two weeks. Alternatively, the contracting parties agree on an agile approach; further details are regulated in the respective offer (SOW).
- (3) In coordination with the client, AOE draws up a written, probable and non-binding time and work plan at the beginning of the work, which will be updated if necessary. On the basis of this plan, AOE will regularly inform the client about the status of the work on request.
- (4) If the contracting parties have agreed to submit interim results, e.g. in the context of sprints,

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AOE will notify the client of these as soon as they are available. These interim results are deemed to have been approved within two weeks if the client does not object in writing or indicates that he needs a longer period of time to review the interim results.

- (5) AOE is entitled to employ appropriately qualified subcontractors.
- (6) The client has to create the necessary prerequisites for the execution in his operating sphere and to provide the necessary infrastructure, such as project room, telecommunications connection, system capacity, office equipment, etc. free of charge. This also includes making suitable employees available, for example for testing software. The client is also responsible for ensuring that sufficient qualified personnel are available for installing the software at the latest at the time the program is handed over and / or the software is installed
- (7) Client and AOE each appoint a project manager. The client's project manager must be able to provide the information required to execute the contract and to make or bring about the necessary decisions himself. AOE is obliged to involve the client's project manager if this is necessary for the execution of the order. For its part, the client will only contact the AOE project manager named and will not issue any instructions to the other AOE employees.
- (8) Further obligations to cooperate are listed in the respective offer.

## **D. Special conditions for temporary employment**

### **§1 Temporary employment**

- (1) AOE is the holder of a permit for temporary employment. The provision of employees does not establish an employment relationship between the customer and the employee of AOE.
- (2) AOE provides the customer with qualified employees who are selected according to the customer's requirements. The customer carries out the supervision and the instruction of the contracted employee.
- (3) If necessary, AOE can replace its employee with qualified employee during the term of the contract if this does not affect the customer's legitimate interests.
- (4) Contractors of AOE are not authorized to issue or accept legally binding actions or declarations for AOE.
- (5) The customer observes and complies with the statutory occupational health and safety regulations for the employee employed by AOE.
- (6) The customer is obliged to inform AOE's employee about the occupational health and safety regulations and accident prevention regulations applicable in the company before starting work. The customer shall notify AOE of any work-related accidents involving employee.
- (7) The customer will inform AOE immediately if industrial action affecting his company is planned or occurs

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- (8) The customer will immediately inform AOE of reports from employee about violations of equal treatment, occupational safety, etc.
- (9) The customer informs AOE about the essential working conditions applicable in his company, including the remuneration conditions of his contractors, which are comparable to the contractors borrowed from him, as well as about the collective bargaining agreements with regard to the employment of contractors that apply to his company. If there are changes in the industry affiliation, the applicable collective agreements or the company agreements for the use of loan employee, the customer will inform AOE about this.
- (10) The customer informs AOE whether the employee was employed by him or an affiliated company in the 6 months prior to the transfer.

## §2 Use of employee from AOE

- (1) The customer will use the employee of AOE for the activities and at the location specified in the temporary employment contract. Deviations can only be agreed between the customer and AOE.
- (2) If the customer discovers within 1 week from the beginning of the hiring of an employee from AOE that he is unsuitable, AOE will replace the employee, whereby no remuneration is due for this period.
- (3) Time recording takes place automatically or by means of time sheets. The customer is obliged to confirm the work records submitted by employee from AOE.
- (4) The customer ensures that the contractors can be used within the framework of the General Equal Treatment Act without being discriminated against. The customer will inform the contractor about the bodies responsible for complaints about disadvantages.
- (5) The customer may only order or tolerate overtime if this is permissible under the Working Hours Act and the customer has obtained any necessary official approvals.

## §3 Payment

- (1) The remuneration for the temporary employment is based on the agreed rates.
- (2) If the collective wage agreements applicable to AOE or the relevant statutory provisions change, AOE is entitled to adjust the remuneration rates accordingly.
- (3) The customer does not pay any amounts of money to the employees of AOE.

## §4 Term and termination

- (1) AOE is entitled to extraordinary termination if the customer: does not observe the provisions of occupational safety, health and safety, and equal treatment; in cases when industrial action, lockouts or force majeure make it impossible to perform work in the customer's company.
- (2) Should the customer or his employees disadvantage the employee of AOE, the customer

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releases AOE from all claims of the disadvantaged employee. This also includes the damage that AOE incurs as a result of the premature termination of the temporary employment contract.

## §5 Liability

- (1) AOE is only liable for the correct selection of the employee for the agreed activity.
- (2) AOE is neither liable for a specific success of the work of the employee nor for damage caused by the employee to the work assigned to them or the customer's work equipment.
- (3) Liability for faulty selection is based on the liability provisions of Section A. § 8.



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