

## General Terms and Conditions for the Provision of Consulting Services, Engineering Services and Software Maintenance

For use in legal transactions with entrepreneurs, public law institutions and public law special funds hereinafter referred to as "Customer".

1. General Provisions
  - 1.1 Our services shall exclusively be governed by the conditions set forth hereunder. Customer's general terms and conditions shall not apply (although they may not have been objected explicitly by us), unless we have expressly agreed to their applicability.
  - 1.2 Oral agreements made prior to or upon execution of a contract must be confirmed in writing to be valid. Changes to a contract shall require written form. The same applies to changes made to the requirement of written form itself.
  - 1.3 Unless otherwise stated, our quotations shall be valid for a period of two (2) weeks commencing upon receipt of the quotation by the Customer.
  - 1.4 Price indications are non-binding and may be subject to charge unless expressly agreed otherwise.
  - 1.5 Pending the coming into force of new terms and conditions engineering and support services as well as software maintenance, these General Terms and Conditions shall also apply to all future performances to the Customer.
2. Scope of Services, Delivery of Services, Deadlines
  - 2.1 Unless otherwise expressly agreed in writing, the services shall solely be provided in accordance with the characteristics and service features – including technical specifications - that have been specified in the quotation.
  - 2.2 We shall have the right to deploy subcontractors (associated enterprises as well as third parties) to deliver the contractually agreed service. To the extent that the performance of the service requires the Customer to reveal or make accessible proprietary confidential information and documentation, the Customer shall agree that these may be made available to the subcontractor for the purpose of service delivery. Prior to such conveyance of information, we shall ensure that the respective subcontractor enters an obligation to maintain confidentiality of all information and documentation conveyed to him.
  - 2.3 The deadlines and milestones specified for a given project shall serve the purpose of orientation in terms of the project's time schedule. Deadline shall be binding only if they were expressly agreed as such in writing. The commencement of and adherence to agreed delivery dates and milestones is predicated upon the fulfillment of the Customer's cooperation obligations, in particular for the supply of equipment, documents, permits, examinations, releases, and compliance with agreed payment conditions. In the event that the Customer's obligations to cooperate are not fulfilled properly or in a timely manner, delivery deadlines shall be extended appropriately.
  - 2.4 In the event that non-compliance with delivery deadlines is resulting from force majeure and other disturbances for which we cannot be held liable, such as war or similar conflicts, terrorist attacks, import and export restrictions, including events of the same nature that affect our suppliers and subcontractors, the delivery dates agreed upon shall be extended for the period of such hindrance. The same applies to labor disputes, which we or our suppliers may be concerned with.
  - 2.5 Any claim for default damages shall be subject to Article 10.
3. Software Maintenance
  - 3.1 Software maintenance is provided only if this has been offered and contractually agreed upon.
  - 3.2 The acquisition of software maintenance does not result in any commitment of Escrypt regarding availability and/or fail-safe stability of the system.
  - 3.3 Software maintenance will only provided in favor of the Customer. Customer may not transfer software maintenance to third parties, in particular to end users which are not employees of the Customer.
  - 3.4 Unless otherwise agreed upon, software maintenance will be provided for a period of one (1) year as of the delivery/provision of the software.
  - 3.5 The maintenance period shall automatically be renewed by a further year, unless terminated upon written notice of at least two (2) months prior to the end of the then current maintenance period.
4. Customer's Obligation to Cooperate
  - 4.1 The customer shall be obliged to fully inform us of any and all facts relevant to the delivery and/or performance of our services (such as program code, configuration, protocol data). We shall not be obligated to check or verify data, information or other services supplied to us by the Customer, with regard to completeness and correctness, unless such verification has been expressly agreed upon between the parties as being a contractual duty. In the event that information or documentation supplied by the Customer proves to be faulty, incomplete, and ambiguous or objectively non-executable, the Customer shall, immediately upon notification by us, remedy or cause to be remedied any faults or malfunctions of Customer-supplied components of which he has been notified by us without delay. To the extent necessary for the provision of the services, the Customer shall provide necessary resources and shall enable (remote) access to its system. The exchange of confidential information shall be subject to a separate confidentiality agreement.
  - 4.2 To the extent that work is performed on the Customer's premises, the required workstations, working materials and tools shall be provided to our personnel free of charge. In such cases, the Customer shall be responsible for taking care of all legal duties to maintain safety, unless other arrangements arise from the nature of the matter or a prior arrangement with the Customer. We shall have the right to refuse our delivery and/or performance of service if the required measures are not taken.
  - 4.3 If the Customer fails to comply in whole or in part with its obligations to cooperate, collaborate or provide materials, with consequential delays and additional expenditures, we shall have the right to adjust the agreed deadlines and/or milestones and to claim damages and additional expenses resulting from such delay or non-performance. If the Customer fails to perform its obligation to cooperate, collaborate or provide materials within a reasonable extended deadline following a further reminder, we shall, in addition, have the right to terminate the contract without notice.
5. Copyright and Related Protective Rights
  - 5.1 We shall not be liable for claims arising from an infringement of industrial property rights or copyright of third parties (hereinafter referred to as Protective Rights) if the Protective Rights are or were owned by the Customer or by an enterprise in which the Customer holds, directly or indirectly, a majority of the shares or voting rights.

- 5.2 We shall not be liable for claims arising from an infringement of Protective Rights unless at least one Protective Right from the protective rights family has been published either by the European Patent Office (EPO) or in one of the following countries: Federal Republic of Germany, France, Great Britain, Austria, or United States.
- 5.3 The Customer shall notify us immediately of (alleged) infringements of Protective Rights and of risks of infringement in this respect which become known and, at our request—to the extent possible—allow us to conduct the litigation (including non-judicial proceedings).
- 5.4 For a product that infringes a Protective Right, we shall be entitled, at our discretion, to obtain a right of use or modify the product so that it no longer infringes the Protective Right, or to replace it by an equivalent substitute product which no longer infringes the Protective Right. If this is not possible subject to reasonable conditions or within a reasonable period of time, the Customer—insofar as it has facilitated the execution of a modification by us—shall be entitled to the statutory rights of termination. Subject to the aforementioned preconditions we too shall have a right of termination. The provision set forth in Article 9.13 shall apply accordingly. We reserve the right to carry out the action at our disposal under the terms of Sentence 1 of this Article 4.4, even if the infringement of the Protective Rights has not yet been recognized by final and valid judgment or acknowledged by us.
- 5.5 Claims by the Customer shall be excluded insofar as the Customer is responsible for the infringement of the Protective Right or if the Customer fails to support us to a reasonable extent in the defence against claims by third parties.
- 5.6 Claims by the Customer shall also be excluded if the products are or were manufactured in accordance with the specifications or instructions of the Customer or if the (alleged) infringement of the Protective Right arises from use of our product in conjunction with another product not originating with us, or if the products are used in a manner that we were unable to foresee.
- 5.7 In all other respects, our obligation to pay damages in case of infringements of Protective Rights shall be governed by Article 10.
- 5.8 Articles 9.1 and 9.2 apply mutatis mutandis to the limitation period for claims based on infringements of Protective Rights.
- 5.9 Consequential claims and claims other than those made by the Customer on account of an infringement of third party Protective Rights governed by this Article 9 shall be excluded.
6. Rights of Use
- 6.1 When results are supplied which have been produced in the course of a customer order (e.g., concepts, software, etc.), the Customer shall be granted – save as otherwise explicitly agreed by contract – a simple (non-exclusive), perpetual right to use the results. To the extent that in an individual case products of third party vendors, in particular third-party software, are or is integrated and delivered by us, special conditions of use may apply, which appear in an annex to an offer or individual contract and become a part thereof.
- 6.2 Independent of the scope of rights granted to the Customer, we shall have the right in any case to use and apply the concepts and collected expertise, etc. forming the basis of the results and findings in subsequent developments and services also for other customers.
7. Acceptance
- 7.1 In cases of development of software components, Escrypt will indicate readiness for operation of such components. Insofar as our delivery or services require Customer's acceptance, the Customer shall accept the services upon delivery and – to the extent agreed upon – subsequent to successful completion of acceptance test, with immediate effect. Minor defects or deviations from the contractually agreed performance characteristics and acceptance criteria shall not entitle the Customer to a refuse acceptance Our obligation of fault remedy shall, however, remain unaffected. The Customer shall notify us in writing of any reservations by naming specific defects and discrepancies within 30 days of delivery. If the Customer's reservation proves to be unjustified, we shall reserve the right to invoice the Customer for the costs incurred by the process of verifying the Customer's complaint.
- 7.2 Acceptance shall be deemed given if the Customer does not grant or refuses to issue a declaration of acceptance in violation of the foregoing clause 7.1 or if the Customer, despite a timely request, refuses to collaborate in a joint acceptance test. The same shall apply if, after a joint acceptance test has been conducted, the Customer fails to immediately declare acceptance in writing (e.g., in an acceptance protocol), unless the Customer specifies in writing within this period the defects on account of which it refuses acceptance. Acceptance shall be deemed to have occurred, if the system is used in production operation.
- 7.3 We shall also have the right to ask for partial acceptance in the case of self-contained partial deliveries.
8. Prices and Payments
- 8.1 The agreed prices shall apply plus statutory value added tax (VAT). VAT is not invoiced in cases meeting the preconditions for tax exemption of export deliveries, provided that suitable documentary proof thereof is provided by the Customer.
- 8.2 We reserve the right to modify our prices appropriately if costs increase after a contract has been entered into, in particular due to changes in wage costs, e.g., in response to collective bargaining agreements, or to changes in the price of materials, and if an interval of more than four (4) months elapses between the date of contract signing and delivery. We shall provide proof of such changes to the Customer upon request.
- 8.3 Except as otherwise agreed in writing, invoiced amounts shall be due upon issuance of invoice. Payment shall be effected within 30 days of the invoice date without deduction. In the case of late payment, we shall be entitled to charge default interest at the statutory rate. Our right to claim additional damages shall remain unaffected. We shall be entitled to make the delivery dependent upon concurrent payment (e.g., through cash on delivery or direct debit) or advance payment.
- 8.4 We shall also be entitled to offset payments against the oldest outstanding amount receivable.
- 8.5 The Customer shall be entitled to hold back payments or offset with counterclaims only to the extent that its counterclaims are undisputed or recognized by final and binding judgment or becomes ready to be decided in a pending law suit.
- 8.6 If, after the contract has been entered into, we become aware of circumstances that may result in our claims appear to be in jeopardy due to the Customer's inadequate ability to pay, we shall have the right to perform outstanding deliveries only against prepayment or against the provision of security and, following the expiry of a deadline set to this effect, to terminate the contract.

9. Quality Defects
  - 9.1 If the service to be provided by us comprises a work performance, the limitation period for claims on account of quality defects shall be twelve (12) months from the date of acceptance of the work or — in the case of a work unsuitable to acceptance — after delivery (passing of risk). The foregoing provisions shall not apply insofar as longer limitation periods may be prescribed by statute pursuant to Art. 438 (1) No. 2 (Construction Work and Objects for Construction Work), Section 479 (1) (Right of Recourse) and Section 634a (Construction Defects), German Civil Code (BGB).
  - 9.2 In the event that a quality defect arises within the limitation period, the cause of which already existed at the time of the passing of risk, we may at our discretion elect to render subsequent performance either by repairing the defect or delivering a new work. With software, the precondition for a compensation claim is that the error must be reproducible and that it occurs in the last revision level accepted or adopted by the Customer.
  - 9.3 In the case of subsequent performance by repairing the defect, the defect shall be remedied at our discretion either at the Customer's premises or our own facilities. The Customer shall provide us with the documentation and information in its possession that is necessary to remedy the defect.
  - 9.4 The limitation period does not begin anew by virtue of subsequent performance.
  - 9.5 If subsequent performance fails, the Customer may – without prejudice to possible claims for damages – rescind from the contract or reduce the remuneration in accordance with statutory provisions.
  - 9.6 Non-reproducible software errors shall not be considered as a warranty defect.
  - 9.7 With respect to software products that the Customer or a third party has extended via a designated interface, we shall only be liable for quality defects up to the interface. We shall not be liable for the compatibility of the software provided with Customer's data processing environment utilized by the Customer, in particular with the software and hardware products implemented by the Customer.
  - 9.8 The Customer shall undertake all actions that are necessary and that may be reasonably expected to prevent or limit the consequences of damage resulting from quality defects in the software; in particular, the Customer shall ensure that backups are made of all programs and data.
  - 9.9 Customer's right of recourse shall exist only to the extent that the claims are not based on any agreement with its own customer exceeding statutory claims in respect of defects, e.g. ex gratia or goodwill regulations.
  - 9.10 In all other respects, our obligation to compensate for damages and to compensate for futile expenditures as contemplated by Art. 284 BGB (German Civil Code) on account of quality defects shall be governed by the terms of Article 10. Claims made by the Customer concerning quality defects other than those covered by this Article 10 and its Subsections shall be excluded
10. Compensation for Damages, Product Liability
  - 10.1 We shall be liable for damages and compensation of futile expenditures as defined in Section 284 BGB (hereinafter referred to as Compensation) on account of a breach of contractual or non-contractual obligations only in case of
    - (i) deliberate acts or gross negligence,
    - (ii) fatal or physical injury or damage to health,
    - (iii) the assumption of a quality or service life guarantee,
    - (iv) breach of material contractual duties,
    - (v) compulsory liability pursuant to the German Product Liability Act or
    - (vi) any other compulsory liability.
  - 10.2 The Compensation payable in case of a breach of material contractual duties is, however, limited to the foreseeable damage typical of the type of contract, except in cases of deliberate acts or gross negligence or in the event of liability due to fatal or physical injury or damage to health or due to the assumption of a quality guarantee.
  - 10.3 We shall not assume liability for damages caused by improper operation or by use in a manner other than that intended.
  - 10.4 We shall not assume liability for effects or impairment of our services and products with regard to performance, usability and safety ensuing from the use of the Customer's own software or hardware parts or from access to our products via interfaces released by us.
  - 10.5 In the event that a defect or fault in our services causes a loss or damage to data and programs at the Customer, our liability shall not include any expenditures resulting from their recovery. The Customer shall therefore be obligated to affect data backups on a regular basis.
  - 10.6 The foregoing provisions shall not be construed as reversal of evidence.
  - 10.7 Insofar as liability on our part is excluded or limited, such exclusion or limitation shall apply for the benefit of our employees, representatives or vicarious agents as well.
11. Export control
  - 11.1 Deliveries and services (contractual performance) shall be subject to the proviso that there are no obstacles to performance due to national or international export control regulations, in particular embargos or other sanctions. The customer undertakes to provide all information and documentation which is required for export and shipment. Delays due to export examinations or approval procedures render deadlines and delivery dates inapplicable. If necessary approvals are not granted or if the delivery and service are not capable of being approved, the contract shall be considered not concluded with respect to the parts affected.
  - 11.2 We have the right to terminate the contract without notice if such termination is necessary for us in order to comply with national or international legal provisions.
  - 11.3 In the event of termination pursuant to clause 11.2, the customer is excluded from raising a claim for any damage or other rights on account of the termination.
  - 11.4 When passing on the products delivered by us (hardware and/or software and/or technology and the respective documents, irrespective of the manner in which they are made available) and work and services performed by us (including technical support of all kinds) to third parties in Germany and abroad, the customer must comply with the respectively applicable provisions of national and international (re-) export control law.

12. Secrecy, Confidentiality

- 12.1 All of our business and technical information (including the purchase price of our products, characteristics which can be derived from any items or software which may be delivered, and other knowledge or experiences) shall be kept secret with regard to third parties as long and insofar as it is not provably public knowledge; in the Customer's own operation such information may only be made available to those persons in the Customer's own enterprise who must necessarily be involved for its deployment and who are also subject to a confidentiality obligation; the subject business and technical information shall remain our exclusive property. Without our prior written consent, such information may not be duplicated or used commercially. At our request, all of the information originating with us (including any copies and recordings made, if any) and property on loan must be returned to us immediately and completely, or destroyed.
- 12.2 We shall retain all rights to the information indicated in Article 12.1 (including copyright and the right to apply for industrial property rights such as patents, utility models, semiconductor protection etc.).

13. Miscellaneous Provisions

- 13.1 If any of the provisions of these Terms and Conditions of any contracts entered into based on these General Terms and Conditions should be or become invalid, this shall not affect the validity of the remaining provisions. The contracting parties shall be obliged to replace the invalid provision by an effective regulation most closely approximating the economic success pursued by the ineffective provision.
- 13.2 The courts of Stuttgart, Germany (for proceedings at the court of first instance, the district court in 70190 Stuttgart) shall have jurisdiction and venue or, at our discretion, the court at the registered office of the business facility executing the order, if the Customer is – a merchant or – does not have a general place of jurisdiction in Germany or – if the Customer moves his place of domicile or normal place of residence abroad after execution of the contract or if his place of domicile or normal place of residence is not known at the time a suit is filed. We shall also have the right to start legal action at a court with jurisdiction at the place of the Customer's registered office or a branch operation. All legal relationships between us and the Customer shall be exclusively governed by the laws of the Federal Republic of Germany, to the exclusion of the provisions of the conflict of laws and the Convention on the International Sale of Goods (CISG) of the United Nations.

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