

## General Terms and Conditions for Contracts for Work and Services

### 1) Scope

- A These General Terms and Conditions shall apply to all contracts on work or services concluded with AUCOTEC. The following may be subject matters of the respective Contract: Development of technical concepts or concepts relating to data processing techniques based on planning of specification level; compilation of individual software based on concepts of specification level; licensing of standard software in combination with other supplies or services; customization of standard software according to individual requests of Customer; delivery of turn-key systems (hardware and software); compilation of expert's opinions in the areas of management consultation and information processing.
- B General terms and conditions of Customer shall only become an integral part of the Contract, if AUCOTEC agrees in writing before.

### 2) Quotations

- A The Contract shall become effective if the binding order of Customer is accepted by AUCOTEC within four weeks after receipt. Customer shall be bound by his order for this period of time. AUCOTEC may still accept Customer's written order even after expiry of this term, unless AUCOTEC has received a written withdrawal of the order by Customer before. Once AUCOTEC has issued a quotation, the Contract shall be effective if the acceptance statement by Customer is received within the acceptance period declared by AUCOTEC.
- B AUCOTEC reserves the right to perform small deviations from the quotation, i.e. deviations for technical reasons which are insignificant for Customer, even after order confirmation.

### 3) Performance of an individual Contract

- A Unless expressly otherwise agreed in writing, AUCOTEC shall, in its reasonably exercised discretion, determine and take responsibility for the manner in which the individual Contract shall be performed. Customer shall have no authority to give instructions; AUCOTEC will however always endeavor to accommodate requests by Customer.

### 4) Customer's duty to cooperate

- A Customer warrants that all necessary cooperation by Customer or his vicarious agents shall be provided in time and free of charge for AUCOTEC – unless agreed otherwise in the respective individual Contract.
- B Customer shall, at his cost, provide AUCOTEC's employees with any support considered necessary by AUCOTEC on the business premises of Customer.
- C Customer warrants that all data carriers provided are free from viruses and in a perfect condition as to contents and technical aspects, in particular as to not having any properties that could have a negative effect, in particular on AUCOTEC's systems. Should this not be the case, Customer shall reimburse AUCOTEC for any and all damages caused by the use of such data carriers and shall hold AUCOTEC harmless against any claims by third parties. As for the rest, Customer shall have the obligation to perform, create and check data backups on a regular basis, at least once daily. The data backup comprises the entire software system and the regular backup of master and transaction data and must be carried out in accordance with the principles of proper data processing and kept separately for at least 3 months.
- D Customer shall retain copies of all documents and data carriers handed over to AUCOTEC, which AUCOTEC may access any time free of charge.

- 5) Termination
  - A Termination of a Contract for Work is excluded, unless an important reason applies. A Contract for Services may only be terminated within the framework of the statutory regulations, unless otherwise agreed. In the event that Customer terminates the Contract due to the existence of an important reason AUCOTEC is not to be held responsible for, AUCOTEC shall retain full entitlement to remuneration. In case of mixed contracts, that law shall apply, which essentially characterises the Contract concerned.
- 6) Confidentiality
  - A Customer and AUCOTEC commit each other to treat any and all documents and information confidential. They will also impose this obligation upon their employees.
  - B Employees of AUCOTEC are under the data secrecy obligations.
- 7) Delivery time
  - A AUCOTEC shall supply the goods or services provided for in the individual Contract within the term stipulated in the Contract.
  - B In cases where failure to keep the term for supplies or services can be proven to have been caused by impediments AUCOTEC is not to be held responsible for or which were not foreseeable at the time of the acceptance of the order, such term shall be prolonged adequately, i.e. at least for the period during which such impediment persists.
- 8) Shipment and passing of risk
  - A Any transportation of contractual items shall exclusively be performed at Customer's cost and risk.
- 9) Installation and implementation
  - A Installation of equipment and facilities including extensions, implementation of software and training of operating staff shall only be performed to the extent expressly agreed in the Contract.
  - B In case of installation and implementation work, Customer will keep all necessary rooms available, including technical requisites, assist with the operation of all connected equipment, if required also by providing the necessary staff, and, if necessary, also enable work to be carried out outside regular working hours. He will furthermore appoint a contact person who will be available to AUCOTEC's employees during the agreed installation and/or implementation period and who will be authorised to make any necessary statements regarding execution of work.
- 10) Acceptance
  - A AUCOTEC may submit partial deliveries or partial services for acceptance (partial acceptances). This includes: Self-contained phases in fulfilment of supplies or services specified in the individual Contract; self-contained and thus operative parts of the subject matter of such individual Contracts; self-contained documents or parts of documents.
  - B Customer shall execute every acceptance procedure (also partial acceptance) for the supplies or services provided by AUCOTEC without delay. AUCOTEC has the right to participate in every acceptance procedure.
  - C Acceptance of equipment or facilities including extensions, or acceptance of software which AUCOTEC has undertaken to install or implement shall be performed by way of a functional test. The functional test shall be considered as carried out successfully if the test procedures applied by AUCOTEC for this purpose do not show any essential defects in the supplies or services or if Customer starts to use the software.
  - D The term for the acceptance period shall be not more than ten calendar days and shall commence as soon as AUCOTEC makes the due supply or service available for acceptance (or partial acceptance) by Customer. If Customer fails to submit any written notice of significant defects within the acceptance term, the supply or service concerned shall be considered as accepted.

11) Warranty

- A AUCOTEC will perform the contractual supplies and services by qualified employees with due care and in consideration of the general state of the art.
- B AUCOTEC's warranty obligations shall initially be limited to re-performance or replacement at AUCOTEC's choice, whereas exchanged parts shall pass into AUCOTEC's ownership. In consideration of type and extent of the contractual obligations assumed by AUCOTEC, AUCOTEC shall be entitled to repeated re-performance or replacement, even if the same defect is concerned. AUCOTEC shall also be entitled to carry out re-performance in such a way that a defect found is worked around.
- C In case re-performance or replacement definitely fail, Customer shall only have the right to demand, in his discretion, a reduction of the remuneration (abatement) or rescission of the Contract. Any further claims are excluded.
- D Warranty obligations of AUCOTEC shall not exist, if and as far as such defect is due to faulty or incomplete information or unsatisfactory cooperation by Customer or if the supplies or services are modified without prior consent of AUCOTEC. If AUCOTEC removes such a defect on Customer's request, AUCOTEC may demand appropriate remuneration. Such appropriate remuneration shall conform to regular prices of AUCOTEC.
- E Warranty claims based on defects shall become time-barred after twelve months following acceptance.

12) Intellectual Property rights

- A In the event that utilisation of the Software violates German intellectual property rights of any third parties and if Customer is therefore by a final decree prohibited to utilise it in whole or in part, then AUCOTEC shall at its own costs and at its discretion either procure the right of utilisation of the Software for Customer or modify the Software to make it non-infringing or replace the Software by other software with equivalent capacity which does not violate any intellectual property rights.
- B To the extent that a remedy according to the previous paragraph is not possible or economically unacceptable for AUCOTEC, AUCOTEC will take back the software at the price paid for it, setting off an appropriate remuneration for utilisation. Customer shall not be entitled to any other rights in excess of this.
- C AUCOTEC shall be exempted from these obligations if Customer fails to act in agreement with AUCOTEC in the defense against such third party claims.

13) Liability

- A The following liability provisions shall apply to AUCOTEC's liability as well as to the individual liability of its employees, vicarious agents and assistants – irrespective of legal grounds:
- B AUCOTEC shall only be liable
  - without limitation of the amount of damage for damages caused by intent or gross negligence of the legal representatives or executive staff of AUCOTEC or by severe corporate negligence;
  - with limitation to damages which, based on the contractual use of the Software, are typical and foreseeable;
  - for damages caused by negligent violation of cardinal contractual duties; or
  - for damages which AUCOTEC or vicarious agents of AUCOTEC cause by slight negligence but without violation of cardinal contractual duties;
  - without limitation for damages due to injury of life, body or health of Customer or his employees which are based on a breach of duty by AUCOTEC.

- C Liability in case of slight negligence (amongst others for remote consequential damages) shall for each individual damage be limited to an amount equivalent to the yearly contractual remuneration under the respective contract.
  - D Liability for lack of a guaranteed feature, for fraudulent intent and for bodily injury shall remain unaffected.
  - E To the extent that entitlements to compensation for damages due to slight negligence apply vis-à-vis AUCOTEC, its employees, vicarious agents or assistants, these shall become time-barred within one year from the point of time when contractual performance had been due for delivery.
  - F AUCOTEC shall not be liable for the replacement of data, unless AUCOTEC causes their destruction by gross negligence or intent. Customer has to ensure that these data may be reconstructed with reasonable expenditure from data material kept available (data backup).
  - G Customer has the duty to notify AUCOTEC immediately in writing of damages within the meaning of the aforementioned liability regulations, so that AUCOTEC is informed as early as possible and can possibly reduce the damage together with Customer.
- 14) Entitlements to the subject matter of Contract
- A All supplies and services shall remain AUCOTEC's property, until any and all claims against Customer have been satisfied in full. The reservation of ownership shall also extend to replacement supplies. Customer may not pledge reserved property to third parties or transfer them by way of security. If reserved property is claimed by third parties, Customer will inform such third parties of AUCOTEC's reservation of ownership and notify AUCOTEC immediately.
  - B Customer shall only be entitled to utilise the supplies or services provided by AUCOTEC under the Individual Contract, except of standard Software, without any limitations within his enterprise, after such work has been remunerated in full.
  - C AUCOTEC shall grant Customer a non-exclusive license to use the Software only: (a) in machine-readable, object-encoded form, (b) for internal business processes of the Customer, (c) for the agreed duration, (d) on the computer hardware and (e) at the location agreed in the Contract. If no location is expressly agreed, then that town or city shall be considered as contractually agreed location, where the Software is to be delivered. A location is limited to the radius of one kilometer (1000 meters). If Customer intends to change the location to an extent exceeding this, prior consent of AUCOTEC shall be required. The same shall apply if Customer wants to make the Software available to a subcontractor or other legally independent service partner for use. AUCOTEC may make this approval contingent upon payment of an additional license fee. AUCOTEC licenses the Software in the object-code. to Customer. In the case of standard software, the functionality is described in the product description, in the case of customer-specific developments it is described in the specification. Customer is granted the non-exclusive right to use the Software permanently on one machine (central unit) at a time only, unless multiple utilisations or network applications ensue from the license. Further services relating to the Software, e.g. briefing, installation, customisation, maintenance or training shall only be due by AUCOTEC to the extent that they were expressly agreed in a separate agreement.
  - D In case AUCOTEC performs modifications to the Software for Customer, any rights, e.g. proprietary rights and copyrights, created thereby shall remain with AUCOTEC.
  - E Unless otherwise agreed in writing, reproduction of the Software is not allowed. Generating a backup copy of the Software shall be exempted; the same shall apply if and as far as reproduction is required for the contractual utilisation of the Software. Customer has the duty to prevent unauthorised access of third parties to the Software as well as the documentation.
  - F Translating, editing, re-arranging and other re-processing of the Software by Customer shall only be permitted upon written approval by AUCOTEC, unless exceptions have been expressly arranged in these Terms and Conditions.
  - G In the event that Customer exceeds the granted use rights without prior agreement with AUCOTEC, he shall pay, as contractual fine/license price for each copy used in excess

and/or for each excess participant, an amount equivalent to 150% of the remuneration for the relevant scope of utilisation according to the price list valid at the point of time when AUCOTEC discovered the excess utilisation. Claims for damages in excess of this by AUCOTEC shall remain unaffected. AUCOTEC's right to demand that Customer shall refrain from unauthorized use remains unaffected in any case.

- H Customer shall ensure that AUCOTEC's supplies and services and any documents pertaining thereto are not disclosed to third parties without prior written consent of AUCOTEC, this shall also apply to edited versions.
- I AUCOTEC shall be free to make publications about the supplies and services, provided that company name and participation of the contract partner are mentioned.
- J Above provision shall also apply if AUCOTEC's supplies and services by are not destined for Customer himself but for third parties.

15) Remuneration and maturity

- A If remuneration on the basis of expenditure of time has been agreed, then invoicing shall be based upon AUCOTEC-Activity Reports, which are recorded by each employee of AUCOTEC with a precision of 0.5 hours. Customer reserves the right to prove that errors have occurred in the invoicing.
- B If remuneration at a fixed price has been agreed, AUCOTEC shall be entitled to receive an advance payment and appropriate progress payments of not less than the following remuneration shares:
  - 35 % upon contract conclusion;
  - 35 % upon the first partial delivery, not later than 6 months following contract conclusion;
  - 25 % upon availability at Customer for acceptance;
  - 5 % upon acceptance.
- C In addition to remuneration, AUCOTEC will invoice ancillary costs incurred by it (e.g. travelling expenses, computer costs) every month in retrospect.
- D In the event that the sum payable per working hour has not been contractually agreed, this shall result from AUCOTEC's price list as applicable from time to time, in correspondence to the respective activity (type and quality). Travelling time will be remunerated in the same manner as working time.
- E In case of working or travelling hours outside regular working hours, the following surcharges will be levied on the hourly remuneration:
  - 50 % on business days between 20 h and 6 h
  - 100 % on Saturdays, Sundays and public holidays.
- F If, due to incomplete or incorrect information on the part of Customer or because Customer fails to cooperate properly, the expenditure of labour exceeds estimations which AUCOTEC used as a basis when accepting the order, then AUCOTEC shall be entitled to an adequate increase of the original remuneration even in case of remuneration on a fixed-price basis or with a maximum limit. AUCOTEC has to inform Customer about this immediately.
- G Remuneration and ancillary costs are understood plus turnover tax as applicable at the time of invoicing.
- H Invoices shall be due for immediate payment without any deductions upon invoicing. Deviating payment conditions shall only be valid upon express agreement in writing. In the event that the period allowed for payment is exceeded, AUCOTEC shall be entitled to charge interest in an amount of not less than 8 % above the respective base interest rate, or higher interest upon provision of evidence. Payment in instalments shall only be permitted upon express agreement. If Customer defaults payment of an instalment, the total open sum of the order shall be due for payment immediately. Rebates or prompt payment discounts will only be granted upon express agreement. They shall become

void in case of judicial or extrajudicial settlement procedures, insolvency or defaults in payment or in case of collection enforced by a court.

- I In case of defaults in payment by Customer, AUCOTEC shall have the right to rescind the Contract or claim damages without setting any time limit. If AUCOTEC claims damages, then this compensation shall amount to 14 % of the invoiced net amount. Customer shall have the right to prove a lower damage. AUCOTEC shall be entitled to claim higher damages upon provision of evidence. Assertion of the reservation of ownership shall not be considered as rescission.
- 16) Set-off, assignment, statute of limitations
- A Assertion of a right of set-off or retention by Customer shall be excluded, unless the counterclaim is undisputed or has been determined by decree absolute.
  - B Customer may only assign or pledge claims under the Contract with prior written approval of AUCOTEC.
  - C Any and all claims of Customer against AUCOTEC shall become time-barred twelve months after acceptance or other termination of the individual Contract at the latest, save as otherwise provided in these General Terms and Conditions. After expiry of this term, AUCOTEC shall have the right to destroy documents it received from Customer.
- 17) Miscellaneous
- A Oral collateral agreements do not exist. Deviating or complementing conditions or amendments of these Terms and Conditions, including this clause regarding the requirement of written form, shall only be valid if agreed in writing. In case of ineffectiveness of a provision in the individual Contract or these Terms and Conditions, the remainder of the Contract shall remain unaffected. Contracting parties undertake to replace any void provision by a legally permissible provision, which comes as close as possible to the former one under economic aspects. The same shall apply mutatis mutandi in the event of a gap in the Contract.
  - B Place of performance shall be the registered office of AUCOTEC.
  - C If Customer is classified as merchant, the place of jurisdiction for any and all disputes arising from or in connection with this Contract shall be the registered office of AUCOTEC.
  - D The Law of the Federal Republic of Germany shall be the applicable law – also for Contracts with foreign customers - with the exception of the UN Convention on Contracts for the International Sale of Goods (CISG).