

Terms and Conditions for Consulting of DUB Business Software

§ 1 Subject Matter of the Contract

- 1. The following provisions apply to all services provided by DUB Business Software, hereinafter referred to as subcontractor, in particular the following services:
 - Software modifications or support for such activities;
 - Installation of programs and programming of necessary interfaces or support for such activities;
 - System consulting and support, either on site, via remote connection, telephone, fax or other media (e.g. video communication);
 - Training of customer employees at the customer site.
- 2. The details of each service commissioned (description of service, schedule, remuneration, etc.) shall be the subject of a separate agreement.
- 3. The Terms and Conditions of subcontractor shall apply exclusively.

§ 2 General Principles of Service Provision

- 1. The customer shall specify the services it requires in the form of individual agreements. Subcontractor shall determine the planning of the services. Subcontractor can refuse to render the services if it deems them to be unreasonable or if it does not have sufficient capacity available.
- 2. In providing the services ordered, subcontractor shall pay due regard to the requirements laid down by the customer and shall render the services according to the data processing regulations valid at the time in question.
- 3. Using its know-how and experience, subcontractor shall make every attempt to achieve the best possible results.
- 4. Assurances as to software characteristics require express written confirmation from subcontractor.
- 5. The subcontractor is solely responsible for taking care of his health insurance etc. as well as for the taxation of his fees and exempts his clients from any claims by a third party concerning these matters.

§ 3 Remuneration and Payment

- 1. All services shall be invoiced according to the actual expenses incurred. Invoicing shall take place on the basis of the activity reports customary at subcontractor. The customer shall have a period of 2 weeks in which to file written objections to the data contained therein.
- 2. All rights on the service rendered by subcontractor for the client are transferred to the client at the moment of full payment of the agreed upon remuneration.
- 3. The customer may only offset claims that are uncontested or fixed by a court of law. The customer may not assign claims to third parties.

§ 4 Duties of the Customer

- 1. The customer shall provide the working environment (e.g. hardware and operating system) to which the service is related, according to subcontractor specifications.
- 2. The customer shall provide the required degree of support when subcontractor renders its services. In particular, the customer shall precisely define its specifications in writing, answer questions without undue delay, provide an appropriate amount of cooperation, perform interim inspections of service work, tests, etc.

- 3. The customer's coordinator shall provide the equipment required by subcontractor to perform the services (workplace, computer time, access to hardware and software, use of telecommunications equipment, authorizations, etc.).
- 4. The customer shall nominate a contact person to supply subcontractor with any necessary information and to make or obtain decisions without undue delay.

§ 5 Deadlines

- 1. Deadlines are not binding unless they are explicitly described as such.
- 2. The subcontractor shall not be held responsible for delays due to strikes, lockouts, force majeure, shortage of employees through no fault of subcontractor, delays caused by the supplier, intervention by authorities, and similar circumstances. If Subcontractor is hindered in the performance of its services by any of the above circumstances or because it is waiting for cooperation or information from the customer, deadlines shall be deemed to have been extended by the duration of the delay and by a reasonable start-up time once the delay has ended. Subcontractor shall inform the customer about the delay.
- 3. Should subcontractor performance be delayed, the customer shall be entitled, after granting two periods of grace, to terminate the contract in part or in full. Warnings and notices of periods of grace must be in writing. Periods of grace must be at least 12 working days. The services already rendered shall be invoiced as specified in § 3.

§ 6 Defects in Services

- 1. If defects occur, subcontractor shall initially be given the opportunity to remedy the defect or to offer alternative solutions. The customer shall describe defects in as much detail as possible. The customer shall be obliged to cooperate in repair work as described in § 4.
- 2. § 7 shall apply with respect to claims for damages. Other claims shall be excluded, e.g. claims for expenses incurred as a result of defect remedy by third parties.

§ 7 Liability

- 1. Subcontractor shall only be liable for damages, irrespective of legal cause, e.g. non-performance, impossibility, warranty, delay, culpa in contrahendo, breach of collateral duties or tortious act) only: a) in cases of intent, where subcontractor shall be liable to pay damages in full; in cases of gross negligence and absence of an undertaking as to qualities, subcontractor shall only be liable for the amount of the foreseeable damage which would have been prevented by the exercise of due care and the undertaking as to qualities. b) in all other events only in the case of delay, impossibility and breach of a major obligation that jeopardizes the purpose of the contract. The amount of a damage shall invariably be limited to EUR 10,000 per damage claim, rising to a maximum of EUR 15,000 for all claims arising out of the contract. Contributory negligence may be claimed (cf. § 8) Contributory negligence may be claimed. Statutory liability for personal injury shall remain unaffected.
- 2. If the customer wishes an explicit insurance against cases of damage, the parties will make an individual arrangement.
- 3. A limitation period of one year shall apply to claims made by the customer on the basis of non-performance, impossibility, delay, culpa in contrahendo, breach of collateral duties or annulment of the contract. This limitation period shall begin when the customer becomes aware of the claim.
- 4. Subcontractor warrants that the transfer of rights to the customer does not infringe the rights of any third party, the use of these rights by the customer impairs, limit or exclude.

§ 8 Confidentiality and Safekeeping

- 1. The subcontractor undertakes to treat in confidence all information, which it receives from the customer, and to delete all data and destroy or return all documents made available to it on the written request of the customer. Subcontractor shall observe German data protection laws. Subcontractor may process electronically any data provided by the customer.
- 2. The subcontractor undertakes to keep all items subject to the contract secret from third parties for an unlimited period, as far as no other regulation was agreed upon.
- 3. The customer undertakes to keep all items subject to the contract secret from third parties. Employees, etc., who have access to the subject matter of the agreement must be informed in writing about subcontractor's copyright and their duty of confidentiality, which they must undertake to observe.
- 4. The customer shall protect the items subject to the contract, particularly source programs and related documentation, in such a way as to preclude improper use.

§ 9 Concluding Provisions

- 1. Amendments to the contract must be made in writing. Oral subsidiary agreements shall not be valid.
- 2. The place of jurisdiction for all disputes arising between the concerned parties of this agreement hereto shall be Munich. Prior to any legal proceedings, the parties hereto shall be obliged to attempt to settle the dispute out of court, employing the services of a competent third party if necessary, unless such an attempt is likely to be unsuccessful.
- 3. Contracts shall be governed exclusively by German law.

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