



## 1 General provisions of contract

### 1.1 General

These general terms and conditions apply to services rendered by andrion ag (hereinafter referred to as "andrion") to customers. Customers are people and companies using services buying software products or obtaining licenses from andrion, or who have andrion carry out clarifications regarding such transactions or services.

### 1.2 Services rendered

Services are all activities performed by andrion for a customer. For example:

- training and instruction of the customer's employees,
- consulting services,
- project planning, management and monitoring,
- writing of concepts, specifications and documentations

This list is neither extensive nor complete. Further information about services can be obtained from andrion.

## 2 Extent of services

### 2.1 Basis

Applicable for the extent of the services rendered by andrion are, first and foremost, the project/task description as specified in andrion's written quote countersigned by the customer, and/or the order confirmation or contract annex(es) countersigned by the customer.

Secondarily, applicable is – also in other form – the subsequent task assignment / acceptance by the customer of the project/task description, as far as it exceeds it and is not declined or limited by andrion.

### 2.2 Validity

Without contrary explicit reservation in the written task assignment by the customer, andrion can act on the assumption that task assignments on the part of the customer are also valid, if

- they are placed verbally by one of the customer's employees, who is involved in the project/mandate, and are later confirmed in writing by andrion (e-mail suffices); or
- are placed by an approved signatory of the customer, whereas the limits of the signatory power (like namely collective authority to sign) do not apply

### 2.3 Alterations

During the time of service delivery, customers as well as andrion can at any time suggest written alterations of these tasks. If the customer suggests alterations, andrion has to inform the customer within a maximum of 5 business days if these alterations are possible and what effect they will have on the contract, especially on price and deadlines. andrion will continue its services until a decision has been reached regarding the change request.

## 3 Execution of order

### 3.1 General

andrion chooses, without contrary written agreement, the appointed consultants or experts directly. For this, andrion uses qualified and carefully selected employees in order to realize services agreed in the quote or otherwise offered.

### 3.2 Customer's obligation to cooperate

As andrion delivers its services mainly in and for the customer's course of business, andrion relies on the customer's cooperation and support. The customer is therefore responsible that andrion will, to the required extent,

- receive the necessary technical and organizational information, delivery results and materials;
- get access to the customer's premises;
- be provided with hard- and software configured as necessary;
- be provided with operational capacities (hardware, software etc.) and, if applicable, qualified employees of the customer;
- be given the names of the customer's contact persons in charge of necessary decisions and that these contact persons will be duly available;
- be presented with necessary permits (like work permits) for andrion employees or the customer if applicable.

These participation agreements must be provided in a way that andrion will be able to deliver its services without delay.

Further duties of the customer, which are necessary for timely completion of the services, can be defined in the offer or in the annexes.

### 3.3 Insufficient cooperation

Customers have to bear delays and costs due to additional work as a result of insufficient compliance with the obligation to cooperate.



### 3.4 Duty to inform

The customer and andrion commit themselves to inform the counterparty about all situations that could significantly influence the delivery of services.

### 3.5 Deadlines

Deadlines agreed upon are guidelines and only binding for andrion if they have been explicitly declared, in writing, as fixed deadlines.

### 3.6 Responsibility

andrion is only responsible for exact, professional work. andrion does not have to account for a defined success or a certain work result, unless something else has been explicitly declared in writing.

The duties undertaken by andrion are considered as being fulfilled, when andrion has completed the services as described in the offer/quote.

## 4 Remuneration and billing

### 4.1 Remuneration based on cost of material and time spent

Except when otherwise stipulated, andrion bills its services according to cost of material and time spent, and in principle by the end of each month. Primarily, the estimates stated in the offer/quote apply.

If services are required outside the following working hours, either in response to the written request of the client or necessary due to events outside the control of the contractor, then the following surcharges will be applied:

|                                  |                 |      |
|----------------------------------|-----------------|------|
| Monday – Friday                  | after 20.00h    | 50%  |
| Monday – Saturday                | 00.00 – 08.00 h | 100% |
| Saturday                         | 08.00 – 18.00 h | 50%  |
| Saturday                         | 18.00 – 24.00 h | 100% |
| Sunday/public holiday (full day) |                 | 100% |

The calculation of travel time is calculated from the departure point (headquarters, branch or permanent establishment of the contractor) of the employee of the contractor to the respective location of the client. Travel time will be charged as working time if the travel time is used productively. However, no surcharges will be applied to the applicable hourly rate.

### 4.2 Remuneration based on budget

andrion must be paid by actual cost of material and time spent, even if a budget was agreed upon in the offer or order. A budget normally serves as a mere basis for planning and

estimation, if the services have not been described in detail in the offer or quote.

### 4.3 Remuneration based on cost cap

If a cost cap was agreed upon in the offer or order, andrion must be paid by actual cost of material and time spent. If it becomes clear in the course of the activities that the cost cap cannot be complied with, andrion informs the customer as early as possible. After information, section 2.3. (Alterations) becomes effective.

### 4.4 Remuneration based on flat rate / fixed price

If a flat rate / fixed price is agreed upon, it covers the total cost of material and time spent by andrion in respect to services described in detail in the quote or its annexes, or in the offer.

If

- amendments to the defined prerequisites for the task assignment
- incomplete information of the customer for the submission of the offer or
- insufficient collaboration of the customer in line with his duty to cooperate

should lead to additional expenditures, these expenditures have to be remunerated to andrion by the customer based on the time spent.

### 4.5 Expenses

The customer is bound to reimburse andrion all expenses up to the extent defined in the offer or order.

### 4.6 Value added tax

All fees and additional charges are exclusive of value added tax.

### 4.7 Fees

If fees are imposed on services of andrion (for example public fees, copyright fees), andrion is authorized to bill the customer separately.

### 4.8 Excessive expenditure in offers

The customer duly notes that andrion does not deliver all services connected to the preparation of an offer free of charge.

andrion is authorized to bill the customer the time spent for the preparation of an offer, if and to the extent to which the offer cannot be prepared based on the documents submitted to andrion by the customer. Especially needs assessments, preliminary analyses and workshops are subject to remuneration as soon as they exceed a suitable dimension.



#### 4.9 Invoice payment

Except when otherwise stipulated, invoices are due for payment net cash within 20 days. After expiration of respite, andrion is authorized to charge a 5% interest on arrears p.a. without issuing a reminder.

### 5 Property and intellectual property rights

#### 5.1 No license

The placing of an order with andrion for the delivery of services does not include, without any further explicitly written agreement, licenses for the use of software products offered, sold or installed by andrion.

#### 5.2 Property of original of the work

After complete payment of the agreed remuneration, the property of a possible original of the work and the documentation passes on to the customer.

#### 5.3 Proprietary rights

Without contrary written agreement, andrion and the customer are entitled to the specifically created proprietary rights of the services rendered by andrion. The contracting parties mutually grant the authority to use and exploit these rights arbitrarily in compliance with secrecy requirement.

#### 5.4 Know How

andrion has the gratuitous right to use ideas, concepts and methods gained whilst rendering services, either alone or together with staff of the customer, for similar services to other customers.

### 6 Warranty and liability

#### 6.1 Third party rights

When rendering services, andrion will not consciously breach third party proprietary rights. If the customer provides services himself, he is liable not to breach third party rights. Both parties keep mutually clear from third party claims in this regard.

#### 6.2 Warranty

andrion guarantees the customer that the rendered services at the time of delivery comply with the contractual specifications (if available) and the customary standards and are carefully executed. Due to constant development of the market, andrion is unable to avouch that the services after completion will lastingly comply with industry conditions. andrion is ready,

though, to render further services against payment in line with a new order.

#### 6.3 Defect elimination

The customer must admonish demonstrable defects by andrion at once, latest within 5 working days after execution of the respective service. In such a case the customer is exclusively entitled to improvement which andrion will carry out latest within a month, but only free of charge if by andrion's default. If andrion is unable to correct, the customer is allowed to ask again for the elimination of deficiencies within the same improvement period. If andrion is still unable to comply during this subsequent time period, the customer has the right to claim reduction of remuneration to the extent of proven decrease in value.

#### 6.4 Liability

andrion is liable for damages – no matter for which legal reason – in connection with the offer or delivery of services up to the maximum total of a yearly remuneration fee agreed for this service. In any case, liability is limited to a maximum of 100,000.00 Swiss francs.

#### 6.5 Fault

Andrion is only liable for culpable and grossly negligent behavior. The liability for negligence is excluded.

#### 6.6 Exclusion of liability

Also excluded – as far as legally allowed – is the liability for indirect loss or consequential damage such as loss of profit or third party claims, for consequential damages caused by a defect or damages due to loss of data, or for damages due to non-performance of contractual obligations of the customer.

andrion is not liable should andrion be hindered to deliver timely and proper execution of service for reasons andrion does not vouch for.

### 7 Terms of agreement

#### 7.1 Start of contract

Validity of these general terms and conditions begins with the task assignment or the actual demand of services of andrion by the customer, depending on what occurs first.

#### 7.2 Termination of contract

The contractual relationship for the delivery of services can be terminated by each party by giving three months prior written notice, if no other period was defined in the quote or in a separate contract. Exempt is the termination



with immediate effect for an important reason as justified by the counterparty, should the party terminating the contract find it unacceptable to continue the contractual relationship until the scheduled termination of the contract.

### 7.3 Confidentiality

Both contracting parties mutually commit themselves and their employees and auxiliary persons called in, to protect the confidentiality of all generally not known documents and information, which refer to the professional sphere of the other partner, and which are made accessible during the preparation and realization of this contract. This obligation remains if there is a legitimate interest, also beyond termination of the contractual relationship. The name of the customer may be used as a reference if not explicitly ruled out. Unless otherwise agreed and within the constraints of confidentiality provisions, the contractor has the right to name the client to use as a reference. The contract partners may communicate openly, especially to the press and potential clients, only that a contractual relationship exists, the name of the contract partners, the key contractual contacts, the broad subject matter and the geography of the contract.

### 7.4 Data protection

The contracting parties are aware that closing and execution of this contract can lead to editing of personal data of the contracting parties, their employees, subcontractors etc. They agree that such data is used for handling and managing their business connections and for this reason can also be disclosed to third parties such as manufacturers, owners of trademark rights, subcontractors, and forwarding agents, financial institutions in Switzerland or abroad. In such cases, the disclosing party will guarantee for data protection by suitable organizational, technical and contractual provisions.

### 7.5 Employment waiver

Employment or use of services of any kind of employees or auxiliary persons of the other contracting party involved in the execution of services within this contract during the term of contract and within one year after termination of the contract, require advance agreement in writing. In the event of a breach of this clause, the defaulting contracting party owes a contract penalty to the amount of a net annual salary of the enticed employee, at least CHF 100,000.00 with reservation for additional claims for further proven damage. The payment of the contract penalty does not relieve from this duty.

### 7.6 Settlement of claims

Compensation of any claims of a contracting partner against counterclaims of the other partner requires advance agreement in writing of the contracting parties.

### 7.7 Severability

Should individual terms or parts of this contract prove void or invalid, the rest of the contract remains valid. In such case the parties shall modify the agreement so that the intention of the nullified or invalid parts can be reached as far as possible.

### 7.8 Applicable law

This agreement is subject to Swiss law, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods from 11 April 1980.

### 7.9 Court of jurisdiction

For all disputes in connection with this agreement or with andrion services, the courts of record in Baden (AG) are exclusively responsible. andrion is authorized, though, to obtain preventive measures in front of any other proper court.