

General Terms and Conditions (GTC) of IT Process Maps GbR

- As per: August 2008 -

A. General Conditions

1. Scope of application
 - 1.1. The following General Terms and Conditions govern all goods and services as agreed between the contractor (CO) – IT Process Maps GbR - and the client (CL).
 - 1.2. Target group of the products and services provided by IT Process Maps GbR are exclusively businesses which use these services in the framework of their self-employed, professional, industrial or official business.
 - 1.3. Use of the CL's Terms and Conditions is thus explicitly excluded unless expressly authorized in writing by the CO.
 - 1.4. Should the CL reject the CO's Terms and Conditions in all or partly, this will be deemed a rejection of the order and a submission of a new offer to the CO, which the CO will be free to accept or reject.
2. Goods/ services
 - 2.1. The CO supplies goods and/or performs services for the CL in the field of "development and distribution as well as consulting and implementation of process models in IT organizations". Depending on the nature of the performances subject to the agreement, IT Process Maps GbR owes the supply of products (e.g. databases or software), work (e.g. adaptation) or services (consulting).

B. Conditions of Business

3. Order/ contract
 - 3.1. In order to be effective all contracts concluded between the CO and the CL must be set up at least in textual form (e.g. fax or email). As a rule, contracts are concluded through the personal signatures of both parties (written form).
 - 3.2. If the CL accepts the CO's offer with amendments, this shall be deemed a rejection of the CO's offer and a submission of a new offer by the CL. A contract agreement will only be reached if the CO has agreed to these amendments at least in textual form.

4. Delivery and service performance dates
 - 4.1. If a certain calendar date is agreed as delivery/ service performance date, the date stated shall be binding.
 - 4.2. If circumstances risking to cause a delay in the delivery or provision of the goods or services become apparent to the CO, it will immediately inform the CL about these.
 - 4.3. Delivery and time limits for performance shall be deemed extended by the period of hindrance and by a reasonable start-up time after the hindrance (down time) and shall thus not constitute a breach of obligations if such hindrance is attributable to the CL performing its co-operation obligations or giving information late, or to strikes or lockouts in either third companies or in the CO's company (however, in the latter case only if the industrial dispute is lawful), or to sovereign acts, statutory prohibitions or other circumstances for which the CO is not responsible (force majeure).
5. Prices
 - 5.1. The agreed prices are quoted net subject to value-added tax at the rate ruling at the time of taking the order.
 - 5.2. The prices quoted shall be valid with the proviso that the order data underlying the offer submitted to the customer remain unchanged after conclusion of the contract. All costs incurring from subsequent modification of the scope of the order by the customer will be billed separately.
6. Invoice, payment, reservation of title, set-off
 - 6.1. Invoices are due within two weeks of receipt.
 - 6.2. VAT will be shown separately on the invoices. Partial or complete absence of such data shall not affect the payability of the invoice.
 - 6.3. In the case of delayed payment, the CO will be entitled to charge overdue fees and to suspend performance of the services.
 - 6.4. In particular cases, the CO reserves the right to deliver products only against prepayment.
 - 6.5. The CO reserves the title to and the rights connected with the goods and services until full settlement of the claims under the respective contract.
 - 6.6. A set-off with another undisputed claim or a claim that has become res judicata shall not be allowed. Exercise of a retention right not covered by the present contractual relationship shall not be allowed.
7. Warranty of title and quality
 - 7.1. The CO guarantees that, when used, the delivery item meets the contractual properties and quality.
 - 7.2. The contractual qualities of the product are defined in the product specification. The CL will receive the applicable product specification together with the quote or, for products which the CO sells over its online shop, the specifications will be available to the CL online there.
 - 7.3. However, the CO shall not accept any liability for the delivery

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items supplied meeting the CL's individual requirements and purposes nor that the products are suitable for other applications or system environments and operating systems as chosen by the CL unless this has been contractually agreed or is explicitly mentioned in the product specification submitted with the offer and is thus an integral part of the contractual agreement.

- 7.4. Warranty claims can only be asserted if the software has been operated under the environmental conditions as specified in the product specification and if the defects reported are reproducible or can be otherwise proved.
 - 7.5. The CL may only assert a warranty claim on grounds of obvious defects, if these are notified in writing within two weeks from delivery of the product or detection of the defect, without prejudice to the statutory regulations concerning the requirement for commercial transactions to immediately examine and give notice of such defects.
 - 7.6. The CL must report the defects in writing giving a detailed and understandable description of the same and supplying all relevant information needed for error recognition and analysis. In particular, he must indicate the work stages that led to the occurrence of the defect, its manifestation and its effects.
 - 7.7. The CO shall, if a defect subject to warranty exists, at its option improve the defective service or product or provide replacement (subsequent performance). As a rule, subsequent performance is provided in the form of repair of the defect within an appropriate period of time, the CO being required to make all measures needed for the repair of the defect available to the CL.
 - 7.8. Customer support services, error diagnosis of defects which clearly do not exist, correction of errors and faults which the CL is responsible for, as well as other corrections, alterations and additions which do not fall within the scope of the contract or are not required by law will only be provided by IT Process Maps GbR after prior consultation with the CL and at extra cost. This applies likewise to the repair of defects resulting from programme modifications, additions or other interventions performed by the CL himself or by a third party.
 - 7.9. Any subsequent product modification by a staff member of the CL or a third party releases the CO from any warranty obligation. The copyright regulations shall remain unaffected.
 - 7.10. The limitation period for claims based on material defects is – with the exception of claims for damages – 12 months.
8. Liability
 - 8.1. The CO shall be liable without limitation for all damages caused by injury to a person's life, limb or health, if these damages have resulted from a deliberate or grossly negligent breach of its obligations under the present contract by the CO itself, by its legal representative or a vicarious agent.
 - 8.2. The CO shall furthermore be liable without limitation for damages resulting from a breach of a material contractual obligation. This comprises obligations whose fulfilment is of vital importance for the completion of the contract, whose breach jeopardises the purpose of the contract and in the compliance of which the customer regularly trusts.
 - 8.3. Finally, the CO shall be liable for damages caused by a deliberate or grossly negligent breach of obligation. Any further liability by the CO shall be excluded. The provisions of the Product Liability Act (Produkthaftungsgesetz) shall not be affected.
 - 8.4. The provisions above shall also apply if the damage has been caused by a legal representative or a vicarious agent of the CO. Should liability pursuant to para. 8.2. and 8.3. occur, it shall be limited to the amount of the reasonably foreseeable damage typical for contracts of this nature.
 9. Data privacy
 - 9.1. The contractual parties undertake to maintain secret all matters which become known to them in connection with their business relationship. They are as such subject to strict secrecy by the parties.
 - 9.2. The CL shall comply with the legal requirements of data protection. Any transmission of information to a third party is allowed only within the framework of existing legislation.
 - 9.3. The CL shall not be allowed by any means whatsoever to reproduce or pass on documents containing secret information to a third party, neither partly nor complete, without the CO's prior consent in writing. After completion of the respective consultancy contract, the recipient of documents undertakes to return the documents to the other party.
 10. Final provisions
 - 10.1. If any provision of these General Terms and Conditions (GTC) is held or becomes invalid, the validity of the remaining provisions or agreements shall not be affected or impaired thereof.
 - 10.2. All agreements between the parties are contained in these GTC, in the related contractual document and in the annexes attached to these documents. Further agreements do not exist.
 - 10.3. The place of jurisdiction shall be the court having jurisdiction over the place of the IT Process Maps GbR's registered office.
 - 10.4. The present contract and the legal relations between the contractual partners resulting thereof are subject to German law excluding UN purchasing law.

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This is a translation of the German version as of August 2008. In cases of doubt the German version shall prevail.

Licence Conditions of IT Process Maps GbR

- As per: August 2008 -

A. General Conditions

1. Scope of application
 - 1.1. The following Licence Conditions govern all products provided by IT Process Maps GbR ("Licensor") for the client ("Licensee").
 - 1.2. Target group of the products provided by IT Process Maps GbR are exclusively businesses which use these products in the framework of their self-employed, professional, industrial or official business.
 - 1.3. Should the client reject the Licence Conditions of IT Process Maps GbR in all or partly, this will be deemed a rejection of the order and a submission of a new offer to IT Process Maps GbR, which IT Process Maps GbR will be free to accept or reject.

B. Licence Conditions

2. Scope of the provision
 - 2.1. The contractual qualities of the product are defined in the product specification. The client will receive the applicable product specification together with the quote or, for products which IT Process Maps GbR sells over its online shop, the specifications will be available to the client online there. With his order, the client declares that he has taken note of the contents of the relevant product specification.
 - 2.2. The products - as described in the relevant product specifications - including their documentation shall be provided electronically. As a rule, the products will be made available to the Licensee by email or download. Provision of the product on an electronic data medium and a printout of the documentation shall not be owed.
 - 2.3. Installation and start-up of the products will be performed by the Licensee. No maintenance service beyond the repair of damages within the warranty period will be provided. The Licensor shall not be obliged to provide updates for future use. Should the client request such an additional service he shall be free to conclude an ancillary contract with IT Process Maps GbR.
3. Rights of use
 - 3.1. The Licensee shall be entitled to use the product acquired without limitation as to time and place for internal and his own

business purposes in the form of a non-exclusive right. Internal refers to the use exclusively for the company or, where applicable, for the legally independent part of an industrial group or a concern with whom the sales contract was concluded.

- 3.2. The Licensee is entitled to alter the product in order to adapt it to his individual requirements. All other rights, in particular property rights, copyrights and trademark rights on the product and its documentation will exclusively be held by the Licensor – IT Process Maps GbR.
- 3.3. Use of the product for the training of people who are not members of the Licensee's staff shall only be allowed upon prior written consent by the Licensor. Commercial sub-licensing is generally not permitted.
- 3.4. The Licensor points out that the proper names used in the product may be brand names of the respective companies or organizations subject to trademark protection. Moreover it should be noted that certain information used in the product may be subject to copyright. The Licensee will not acquire property, copyright and trademark rights on such information.
- 3.5. The Licensee will ensure compliance with the aforementioned rights of use. In particular, he will ensure that use of the product will not go beyond the rights of use granted under the present agreement. In order to secure his legal copyright position, the Licensor is entitled to take appropriate measures in order to provide himself or request from the Licensee proof of compliance with the scope of licence agreed under the present agreement. Non-adherence to these provisions shall entitle the Licensor to termination without notice of the contract of use.
- 3.6. Should parts of the product be modified or extended by the Licensee pursuant to para. 3.2., the remaining unchanged components of the product as originally supplied will continue to be subject to the provisions of the present agreement.
- 3.7. The Licensee shall not be allowed to further distribute, burden, sell, lend or lease out the product, neither as a whole nor parts thereof. However, product adaptations necessary in order to meet company-specific requirements may be carried out. Commercial utilization of such adaptations or of the thus modified product which go beyond the purpose referred to in paragraph 3.1 are subject to the Licensor's prior consent. Utilizations without this consent are strictly prohibited and can result in claims being raised under criminal and civil laws. The Licensor will regularly enforce these claims.
- 3.8. The licence does not comprise the right to use the product or parts thereof, neither unchanged nor modified under the copyright regulations, for the Licensee's own customer orders or for other external business purposes. This applies in particular to consultancy projects which the Licensee carries out for its own customers or any other third party. In such cases, the Licensee's customer is himself obliged to acquire a licence with IT Process Maps GbR.
- 3.9. The licence does not entitle the Licensee to receive the product on an electronic data medium nor to be provided with printed documentation, technical or telephone support or product upgrades or updates.

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4. Right of rescission
 - 4.1. The return of products and the cancellation of corresponding contracts is permitted only in exceptional cases. Any return is a gesture of goodwill and requires the consent of IT Process Maps GbR.

5. Licensee obligations
 - 5.1. The Licensee will appoint a responsible contact authorized to take decisions on behalf of the Licensee which are binding for the Licensee or to bring about such decisions without delay. The contact person shall be at the Licensor's disposal for all necessary information.
 - 5.2. The Licensee acknowledges that the product including the documentation and other documents is copyrighted. This applies equally to future versions.
 - 5.3. Moreover, the Licensee will inform the Licensor without delay if he is aware of any risk or incidence of unauthorized access in his area.

6. Final provisions
 - 6.1. If any provision of these Licence Conditions is held or becomes invalid, the validity of the remaining provisions or agreements shall not be affected or impaired thereof.
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