

# General terms and conditions

## § 1 Scope and service provision

- a) These general terms and conditions apply to all contracts with our customer (from now on also terms and conditions). We do not recognize any terms and conditions of the customer that conflict with or deviate from our terms and conditions unless we have expressly agreed to their validity. Our terms and conditions also apply if we carry out the delivery without reservation knowing that the customer's terms and conditions conflict with or deviate from our terms and conditions.
- b) Our terms and conditions also apply to all future contracts with the customer within the framework of the existing business relationship.
- c) abat AG will provide its services in accordance with the written assignment. abat AG carries out all work with the greatest care and always regarding the individual situation and the needs of the customer. Wherever possible, the work is carried out by the customer, in exceptional cases by abat AG. Insofar as the work is carried out at the customer, the abat AG employees receive sufficient workplaces and work equipment free of charge.
- d) If an employee is prevented from performing the work due to illness, vacation, or other reasons for which the customer is not responsible, abat AG will, endeavor at the request of the customer, to immediately employ another suitable employee. In addition, abat AG can replace an employee with another suitable employee, unless otherwise contractually agreed.
- e) abat AG can use subcontractors to carry out the order, unless otherwise agreed.

## § 2 Conclusion of contract and changes in services

- a) The offers of abat AG are subject to change and can be revoked by abat AG at any time until the customer has written acceptance unless abat AG has expressly designated the offer as binding.
- b) abat AG can withdraw from the contract if abat AG is not supplied correctly or on time by its suppliers. This only applies if abat AG is not responsible for the non-delivery, especially if a congruent hedging transaction has been concluded with the supplier of abat AG. abat AG will immediately inform the customer about the non-availability of the goods and immediately refund any consideration already received.
- c) Prospectuses, advertising material or information published by abat AG or the manufacturer of products on the respective homepage only form part of the agreed quality of the delivery item if the customer and abat AG have expressly agreed this.

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- d) If the customer wants to change his requirements, abat AG is obliged to agree to this if there are no changes for abat AG, especially regarding the effort and scheduling. Insofar as a change request affects the contractually agreed remuneration or dates, abat AG can demand an appropriate adjustment of the contractual conditions, an increase in remuneration or the postponement of deadlines.
- e) At the request of abat AG, the customer will detail his request for change to the extent that the task is detailed in the contract. abat AG will take over this task at the request of the customer in return for payment according to expenditure.
- f) The change in service only becomes binding if its effect on the contract, regarding deadlines, technology, costs, is clarified and agreed in writing between the customer and abat AG.
- g) If the customer explains a change request orally, abat AG can confirm this in writing (commercial confirmation letter). If a change affects a document that has already been approved, abat AG will also reflect these changes in these documents. These changes require the approval of the customer or, in the case of the DP technical design, the opinion of the customer.

## § 3 Confidentiality / data privacy

- a) abat AG undertakes for an unlimited period to maintain security of all confidential information or business and company secrets that it becomes aware of in connection with the execution of the order. Without the customer's written consent, abat AG may neither pass them on to third parties nor use them for itself. abat AG is permitted to disclose business and trade secrets to the extent necessary to comply with decisions of a competent court or authority or legal requirements. The confidentiality obligation ends when business and trade secrets become public, without abat AG being responsible for this.
- b) The obligation of confidential treatment does not apply to the know-how relating to the introduction of software systems, as well as to data that abat AG already knows or was known outside of this contract. abat AG will oblige all persons employed by it to carry out the contract to comply with this regulation.
- c) abat AG is authorized within the scope of the purpose of the contract to process the personal data entrusted to it in compliance with the data protection regulations or to have them processed by third parties.
- d) abat AG is entitled to include the name of the customer in a reference list.

## § 4 Duty of the customer to cooperate

- a) The customer undertakes to support abat AG to the best of his ability and to create all conditions necessary for the proper order execution in his business

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sphere. In particular, the provision of computer power, infrastructure and software systems is the responsibility of the customer, unless otherwise contractually agreed.

- b) If the customer fails to cooperate, abat AG is entitled to terminate the contract without notice after unsuccessful expiration of a reasonable period set by abat AG. Irrespective of the assertion of this right of termination, abat AG is entitled to compensation for the damage or additional expenses caused by the failure to cooperate.

## § 5 Acceptance of work contracts

- a) The customer will confirm the handover of the work in writing and after successful acceptance testing will declare acceptance in writing. Obvious defects are considered approved if the client does not complain about them at the latest during acceptance. The work is deemed to have been accepted 14 days after delivery if the customer does not make any errors until then which significantly limit the usability of the work.
- b) abat AG is available for queries to an appropriate extent.
- c) Further details of the acceptance are regulated in the contract.

## § 6 Compensation / terms of payment

- a) Unless otherwise agreed, in addition to the fee claim, abat AG is entitled to reimbursement of the necessary expenses. The fee for the services of abat AG is calculated according to the times spent on the activity (time fee) or agreed in writing as a fixed price.
- b) When billing according to daily or hourly rates, the hours of work that have started are fully charged.
- c) All claims of abat AG are due upon invoicing and are payable without deductions within 14 days after receipt of invoice. The statutory value added tax is to be added to all price quotations and is to be shown separately in the invoices.
- e) The customer can only offset or assert a right of retention or right to refuse performance if his counterclaim has been legally established or is undisputed. Deviating from sentence 1, offsetting or assertion of a right of retention or right to refuse performance due to a counterclaim for replacement of remedial costs or completion costs from the same legal relationship is always possible.
- f) If a threat to the payment claim of abat AG due to inadequate performance of the customer becomes apparent, abat AG is entitled to immediately call all outstanding claims from the business relationship with the customer and to request advance payment from the customer. A risk to the payment claim exists if information from a bank or credit agency suggests the credit unworthiness of

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the customer or if the customer is in default of payment with at least two invoices.

- g) Details of the method of payment are regulated in the contract.

## § 7 Warranty

- a) abat AG guarantees that the services provided, and the documentation created by abat AG for this purpose do not contain any errors that cancel or reduce their suitability. An insignificant reduction is not considered.
- b) The warranty ends after 12 months. The statutory provisions on the commencement of the limitation period, suspension of expiry, suspension and recommencement of periods remain unaffected.
- c) The customer has the right to have any errors rectified insofar as these are reproducible or can be shown by machine-generated expenses insofar as these can be attributed to services rendered by abat AG. The customer must immediately report errors in writing in a comprehensible form, stating the information useful for error detection, and at the request of abat AG, using the form provided.
- d) The customer must support abat AG within reasonable bounds in eliminating errors, in particular at the request of abat AG to provide jobs and machine time. Remote diagnosis and corrections can be carried out if the customer has the necessary equipment. For reasons of data protection, the customer must set up the line.
- e) abat AG must correct errors within a reasonable period. The customer can set a reasonable deadline for the elimination of errors. If the elimination of the error fails, the client can demand a reduction of the remuneration, cancellation of the contract or - within the framework of §8 - compensation for damages under the legal requirements.
- f) The warranty expires if the customer interferes with the systems created by abat AG's services, unless the customer proves in connection with the error message that the interference is not the cause of the error.
- g) abat AG can demand compensation for its expenses if it has acted based on a false report without the client having proven an error by abat AG.

## § 8 Liability of abat AG for damages

- a) The liability of abat AG for damages, regardless of the legal reason, in particular also due to impossibility, delay in delivery, violation of obligations during contract negotiations or tort, is based on the statutory provisions, unless otherwise agreed in this paragraph.

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- b) abat AG has unlimited liability, insofar as relevant, under the Product Liability Law, in the event of fraudulent concealment of a defect, for damages resulting from injury to life, body or health, in the event of intent or insofar as we have assumed a guarantee.
- c) In case of gross or slight negligence, abat AG is only liable to a limited extent for foreseeable contract-typical damages.
- d) Liability for property and pecuniary damage is limited to a maximum of € 2,000,000 for a single damage event. This restriction does not apply in the cases of § 8 lit. b).
- e) The sum of the claims for damages of all beneficiaries, which result from a single, temporally connected, delimitable and, to that extent, uniform service, is deemed to be an individual claim.
- f) The liability limit mentioned in § 8 lit. d) does not apply if the customer notifies abat AG in writing of a higher value than the desired amount of damages at the latest upon conclusion of the contract. In such a notification, the maximum liability limit is determined by the value communicated. abat AG will insure the notified value and is entitled to demand a correspondingly adjusted higher remuneration from the customer.
- g) In the event of data loss, abat AG is only liable for the effort required for the data to be reconstructed until the customer has properly backed up the data.
- h) Claims for compensation expire after 12 months, except in the cases of § 8 lit. b) which expire within the statutory periods. The statutory provisions on the start of the limitation period, the suspension of expiry, the suspension and the new start of deadlines remain unaffected.

## § 9 Retention of title

- a) The abat AG in-kind deliveries remain the property of abat AG until all claims arising from the respective contract including all sub-contracts have been paid in full. The placing of individual claims in a current invoice and the balance drawing does not affect the retention of title; in this case, the reservation relates to the recognized or actual balance. Payment is only deemed to have been received on the abat AG bank account. The retention of title does not revive for delivery items if the customer has acquired ownership of these delivery items and new claims arise from the business relationship with him.
- b) The customer must keep the goods in commercial care for abat AG and insure them adequately against fire, water, theft, and other liability risks at its expense. The customer assigns his claims from the insurance contracts to abat AG, which accepts the assignment.
- c) The customer must inform abat AG immediately in writing in the event of attachments or other third-party interventions.

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- d) The customer bears all pre-litigation and judicial costs that must be expended to cancel a seizure or other access by a third party to the reserved goods and to recover them, insofar as they cannot be collected by the third party.
- e) abat AG undertakes to release the securities to which it is entitled at the request of the customer insofar as the realizable value of the securities exceeds the claims to be secured by more than 10%; abat AG is responsible for selecting the securities to be released.

## § 10 Provided documents

Only the customer is liable for the legality of the use of documents that the customer hands over to abat AG. abat AG is not obliged to check the legality of the use. If abat AG is used by third parties for injunctive relief or damages due to the use of such documents, the customer releases abat AG from all claims.

## § 11 Duty of loyalty

The parties undertake to be loyal to each other. In particular, the hiring or other employment of employees or former employees who work or were employed in the execution of the order is prohibited before twelve months after the end of the cooperation.

## § 12 Force majeure

Force majeure events that make performance significantly more difficult or temporarily impossible entitle the respective party to postpone the performance of the service by the duration of the disability and a reasonable start-up time. Industrial action and similar circumstances are equivalent to force majeure insofar as they are unpredictable, serious, and not at fault. The parties shall inform each other immediately of the occurrence of such circumstances.

## § 13 Right of retention / record retention

- a) Up to the complete settlement of their claims, abat AG has a right of retention on the documents provided to it, but the exercise of which is unfaithful if the retention would cause the customer a disproportionately high damage that cannot be justified if both interests are weighed up.
- b) After settlement of its claims arising from the contract, abat AG must surrender all documents that the customer or a third party handed over to abat AG for the purpose of executing the contract. This does not apply to correspondence between the parties and to simple copies of the reports, organization charts, drawings, lists, calculations, etc. made within the scope of the contract, provided that the contractor has received the originals and for documents that abat AG must keep due to legal requirements.

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- c) The obligation of abat AG to retain the documents expires six months after delivery of the written request for collection, otherwise three years, and in the case of documents retained according to § 15.1 five years after termination of the contractual relationship.

## § 14 Place of jurisdiction, applicable law and various

- a) If the customer is a merchant, a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes arising from or in connection with the contractual relationship is our registered office. The same applies if the customer does not have a general place of jurisdiction in Germany or relocates his domicile or usual place of residence abroad after conclusion of the contract or if his place of residence or usual place of residence is unknown at the time the action is filed.
- b) The law of the Federal Republic of Germany applies.
- c) Should individually provisions of the contract be ineffective or void, this does not affect the validity of the rest of the contract. The ineffective or void provision is deemed to be replaced by a provision that comes as legally effective as possible to the economic meaning and purpose of the ineffective or void provision. The above provision applies accordingly in the event of loopholes. Should the ineffective or void provision be a General Terms and Conditions in the sense of § 305 BGB, § 306 (1) and (2) BGB shall apply in deviation from the above.
- d) No action by abat AG other than an expressly written waiver constitutes a waiver of a right to which abat AG is entitled under the contract, these terms and conditions or the law. A delay in the exercise of rights is also not considered a waiver of the law concerned. A single waiver of a right shall not be deemed a waiver of that right on any other occasion.

## § 15 Export / re-export regulations

The sale, delivery, transfer, licensing and installation of hardware and software, including the services and contractual services of abat AG are considered high technology and are therefore generally subject to the provisions of the Foreign Trade and Payments Act of Federal Republic of Germany and other comparable provisions of the country of origin USA and other countries of origin.

The customer assures that he will observe these regulations on his own responsibility. This also applies to all products that are manufactured directly based on the above-mentioned abat AG services. abat AG is entitled to refuse performance of the services if the above regulations are violated.