

## 1. Subject and Scope of Validity

1.1 These General Terms and Conditions of Business for SPIRIT/21 Group govern the provision of defined work and services of each company within the group, even when no explicit reference has been made to the General Terms and Conditions of Business. Specifically, they are the basis for services from

- SPIRIT/21 GmbH
- SPIRIT/21 IT Services & Solutions GmbH and
- SPIRIT/21 IT Services AG

Together with the critical individual and framework contracts, they form an integral part of each contractual relationship concluded with the respective SPIRIT/21 company (hereinafter referred to as SPIRIT/21). Any purchasing conditions of the customer that contradict the provisions of these General Terms and Conditions of Business shall not apply. As such, SPIRIT/21 shall expressly object to said conditions.

If any regulations in individual and framework contracts deviate from the provisions of these General Terms and Conditions of Business, provisions in the individual contracts shall take precedence.

Upon commencing business relations with SPIRIT/21, the General Terms and Conditions of Business shall be recognised as implicitly valid. This information can be found online at [www.spirit21.com](http://www.spirit21.com) as a public document and a download.

1.2 Services from SPIRIT/21 shall be stipulated as work or services in the offer.

SPIRIT/21 shall be responsible for supervising, controlling and inspecting the service provision. Customer shall be responsible for organisational incorporation of SPIRIT/21 services into its own operating procedure. Note that it is not possible to eliminate errors in IT programs under all application conditions given the current state of technology.

Services are intended to provide consulting and support to Customer. SPIRIT/21 shall be responsible for performing these services. The customer shall be responsible for work performance or services sought from it by SPIRIT/21 and is thus responsible for the achievable results.

1.3 A contract shall take effect once the associated offer is signed by Customer and SPIRIT/21. The date on which SPIRIT/21 receives an offer signed by Customer shall be considered the date that the contract comes into effect. Customer shall be entitled to transact subsequent service orders up to an amount of €50,000 in writing, orally or informally. A contract for such an order shall take effect upon receipt of the order confirmation.

## 2. Planning and execution conditions, deadline, acceptance, responsibilities of the contract partner

2.1 The contract contains the description of services, planning and execution conditions, definition of functions and specifications (performance features) of a work and specifications for parts, devices, programs

and other required products to be used.

2.2 The contract partners shall be entitled to stipulate a schedule for service provision, a planned deadline for concluding services and a planned or fixed deadline for completing and transferring work.

2.3 As stipulated in the contract, SPIRIT/21 shall document service fulfilment by the deadline in accordance with defined acceptance criteria test data and test scenarios to be provided by the customer in an acceptance test.

Customer shall accept the work immediately after a successful acceptance test and/or transfer. Minor deviations from the stipulated performance features and acceptance criteria do not entitle Customer to refuse acceptance. The obligation of SPIRIT/21 to eliminate faults in accordance with Paragraph 5 (Warranty) shall remain unaffected. All components and partial results used productively by Customer shall be considered accepted. For acceptance purposes, a report to be signed by both parties must be drafted. This document confirms that the stipulated service complies with the acceptance criteria. A list with the faults identified during acceptance shall be added. The faults shall be divided into fault classes.

The following fault classes have been stipulated for acceptance:

### Fault class 1

Such faults make suitable use (efficient use) impossible or unreasonably restrict or impede it.

### Fault class 2

Suitable use is not impeded to the point of preventing the acceptance test from being carried out. Where possible, these faults shall be eliminated during the specified acceptance test period.

### Fault class 3

Suitable use is not restricted or only slightly restricted as a result of these faults. Contract partners shall collaborate in the final assignment of these errors into one of the fault classes above.

After acceptance, the remaining faults in Fault class 2 and Fault class 3 are corrected as part of the warranty in accordance with a schedule to be created collaboratively. Faults in Fault class 1 are "considerable deviations", while those in Fault classes 2 and 3 are "minor deviations." If SPIRIT/21 is, not able to document the stipulated performance features by the deadline or, if necessary, within a reasonable extension period, due to reasons for which it is responsible, Customer shall be entitled to withdraw from the contract once the extension period has elapsed. In such cases, Paragraph 7.4 shall apply accordingly. Acceptance cannot be refused due to faults in devices and programs from other manufacturers that are not delivered in accordance with this contract and/or due to operating faults for which SPIRIT/21 is not responsible.

2.4 If the task or service is completed at Client's premises, in whole or in part, due to contractual stipulations, Client shall create the conditions on its premises that are necessary for proper provision of the service or work. Client shall not receive payment for creating these conditions. Among other tasks, Client is required to:

- Provide a sufficient number of working spaces for employees of Contractor that are equipped with all necessary equipment,

## General Terms and Conditions of Business for work and services

- Designate a contact person who is available to the employees of Contractor during the stipulated working time and who is authorised to submit declarations necessary as an interlocutory decision for continuing the service,
- Grant employees sufficient access to information required for their duties and furnish them with all required documents in a timely manner,
- Provide Contractor with sufficient and unimpeded computer time (including operating and system maintenance) and data collection capacity with the necessary priority level, as well as other information, documentation and tools required for rendering the work in a timely manner.

In the provision of services, SPIRIT/21 shall rely on Customer to fulfil the accepted responsibilities within the specified period. If this does not occur results in delays and/or extra effort and costs, SPIRIT/21 shall be entitled to request changes to the schedule and pricing, irrespective of further legal rights.

2.5 Either contract partner shall be entitled to submit a request in writing to the other contract partner to make changes to the stipulated service scope. Upon receipt of a change request, the recipient shall check if and under which conditions the change could be made and submit a confirmation or rejection of the request to the claimant in writing immediately that includes, if necessary, a rationale for the decision. If a change request from Customer requires an extensive inspection, this shall be governed in a separate agreement. The time/costs for the inspection can be calculated by SPIRIT/21.

2.6 Contractual amendments to the stipulated conditions and services that are required for an inspection and/or change are defined in writing and take effect in accordance with Paragraph 1.3.

2.7 SPIRIT/21 shall be entitled to contract out the work and services, in whole or in part, to a specified subcontractor.

### 3. Proprietary and usage rights

3.1 Materials are written works or other copyrighted works (work results) transferred to Customer in a written, machine-readable or other form in accordance with the stipulated service scope. This includes programmes, programme lists, auxiliary programmes, documentation, reports drawings and similar works. The term "materials" does not include programmes that are subject to their own licence terms.

3.2 Changes to and reconfigurations of available materials are designated as "adaptations" in the contract. Prior to adaptation, consent from the right holder to use the available material shall be submitted by Customer to SPIRIT/21.

3.3 SPIRIT/21 shall specify the materials that are transferred to Customer. SPIRIT/21 or third parties hold all proprietary or usage rights, including copyright, to the materials that existed before or come into existence during service provision. Unless agreed otherwise in the contract, Customer shall receive a copy of these specified materials, bestowing upon Customer the irrevocable, non-exclusive, global right to use, perform reproduce, display, transfer and distribute copies of these materials within its company. Customer shall undertake to attach the copyright notice and other proprietary notices to each copy completed under these

conditions.

3.4 Each legal entity (AG, GmbH, etc.) and subsidiary that holds a share of more than 50% shall be considered a company.

3.5 The following applies to all inventions that originated from or were developed by one of the contract partners and for which property rights have been registered:

3.5.1 Inventions from employees of Customer are the property of Customer and those from employees of SPIRIT/21 are the property of SPIRIT/21. The contractual partners grant each other a non-exclusive, irrevocable, global and royalty-free license for the inventions and their subsequent copyrights for their activities.

3.5.2 Inventions developed in a joint effort by employees of Customer and employees of SPIRIT/21, and the associated property rights bestowed upon them, are the property of both contract partners. Each Customer shall have the right to grant licences and associated rights to third parties for such inventions without notifying or submitting payment to the other contract partner.

### 4. Prices and payment terms

4.1 Unless another invoicing method is stipulated in the contract, work and services shall be calculated based on the fixed price listed in the contract or based on the time and materials in accordance with Paragraph 4.2 upon conclusion or acceptance of services.

4.2 For work and services determined based on time and material use, the accrued work and travel time are calculated for the respectively valid compensation classes and billing rates, and the parts used are calculated at the prices that apply at the time of service provision. Other services, including accommodation and travel expenses, are also included in the calculation. Invoicing shall be carried out on a monthly basis at the end of each calendar month.

4.3 As early as four months after a contract takes effect, the designated compensation classes and billing rates for work and services calculated based on time and materials can be changed by SPIRIT/21 with a 3-month notice period. Note that Customer has the right of termination in accordance with Paragraph 7.

4.4 Estimated prices specified for work and services based on time and materials used are non-binding. Bills of quantities used in this estimate are based on an assessment of the service scope carried out using the best available knowledge. If SPIRIT/21 determines that bills of quantities have been exceeded during service provision, it shall notify Customer of this immediately. Pending submission of written consent from Customer, SPIRIT/21 shall not exceed the bills of quantities used to calculate the estimated price.

4.5 The VAT shall be invoiced at the rate that applies during service provision. If the VAT rate changes within the contract period, the periods with the respective VAT rates shall be governed in separate agreements.

4.6 Invoices shall be payable without deduction upon receipt. If the invoice amount is not received within 30 days after the invoice date, SPIRIT/21 shall be entitled to claim default interest. The default interest amount shall be 10% p.a. above the bank rate of the Deutsche Bundesbank that applies at the time of invoicing.

## 5. Warranty (defects)

5.1 SPIRIT/21 shall ensure that the performance features stipulated in the contract for work have been fulfilled and that they comply with the service scope. SPIRIT/21 shall eliminate any warranty defects reported by Customer in writing. The warranty period is 12 months long and begins with acceptance (Paragraph 2.3). If a defect is not eliminated with a reasonable period, Customer can either lower the price due to this defect or, if the value or suitability of the work is reduced considerably, request rescission of the contract.

5.2 There is no entitlement to a warranty for services.

## 6. Liability

6.1 SPIRIT/21 shall be liable for damages resulting from the lack of any warranted features, and for damages resulting from intent or gross negligence.

6.2 SPIRIT/21 shall not be liable for damages resulting from ordinary negligence. However, in the event of a violation of crucial contractual obligations resulting from ordinary negligence, SPIRIT/21 shall be liable for direct damages up to €500,000 or up to the price of the service that resulted in the damage.

6.3 In the event of ordinary negligence, SPIRIT/21 shall not be liable for indirect or resulting damages, even if SPIRIT/21 was notified of the possibility of such damages arising.

## 7. Termination

7.1 Customer shall be entitled to terminate a contract with a period of one month at any time.

7.2 Customer and SPIRIT/21 shall be entitled to terminate a contract if the other party has not fulfilled its contractual obligations even after concession of a suitable extension period.

7.3 Upon contract termination in accordance with Paragraph 7.1 and 7.2, SPIRIT/21 shall immediately halt all work carried out to fulfil the affected service scope or in accordance with a schedule created with Customer. Customer shall bear the cost for the stipulated price, minus the pro rata price for the stipulated service scope not performed as a result of the termination.

7.4 If Customer terminates the contract due to reasons for which SPIRIT/21 is responsible, Customer shall only pay the price for those portions of rendered services that can be utilised.

7.5 Provided that contract conditions are not temporary by their nature, they shall continue to be valid after the contractual relationship is terminated and for potential assignees or contract transferees.

7.6 Irrespective of any further legal termination right, SPIRIT/21 shall be entitled to terminate a contract without notice if:

- Customer is in default on two consecutive, overdue payments and does not manage to pay within a reasonable extension period.
- The financial circumstances of Customer worsen substantially after conclusion of the contract, unless

a request has been submitted to open bankruptcy proceedings. Provided that Customer has defaulted after requesting bankruptcy proceedings to be opened or is in violation of other contractual provisions in spite of receiving a written warning from SPIRIT/21, SPIRIT/21 shall be entitled to terminate this contract without notice.

## 8. Rights of third parties

8.1 SPIRIT/21 shall defend Customer against all claims resulting from a violation of commercial property rights or copyright through materials used in accordance with the contract, and shall bear the legal costs and damages of Customer, provided that Customer notified SPIRIT/21 of such claims immediately in writing and SPIRIT/21 reserves the right to all countermeasures and settlement conferences. If such claims are asserted or to be expected, SPIRIT/21 shall be entitled to change or replace materials at its own expense. If it is not possible to do this or to obtain a utilisation right at a reasonable cost and with reasonable effort, Customer agrees to return the material to SPIRIT/21. In such cases, SPIRIT/21 shall reimburse Customer in an amount not exceeding the paid amount.

8.2 The regulations in Paragraph 8.1 shall not apply if claims from a third party state that materials are being changed by the customer or used under application conditions other than those specified, or that products not delivered by SPIRIT/21 are being used with the materials or used outside of the system delivered by SPIRIT/21.

8.3 Customer shall release SPIRIT/21 and its subcontractors from any liability for third party claims resulting from unauthorised transfer for purposes of adaptation in accordance with Paragraph 3.2, except in case of intent or gross negligence on the part of SPIRIT/21 or its agents.

## 9. Business partner

SPIRIT/21 has concluded agreements with specific partners to market and support its products and services. Insofar as a SPIRIT/21 business partner fulfils work and services in accordance with these General Terms and Conditions of Business, these General Terms and Conditions of Business shall apply exclusively. Nevertheless, SPIRIT/21 is not responsible for the business activities of the SPIRIT/21 business partner, for any promises that this partner makes to Customer or for products and services that the SPIRIT/21 business partner offers in its own contracts.

## 10. Data protection

10.1 Customer consents to the storage and use of its data by SPIRIT/21 and its associated companies, including names, phone numbers and e-mail addresses, in all countries in which SPIRIT/21 and its associated companies do business. This information can be processed and used as part of the existing business relationship, and passed on to subcontractors and business partners for use in collaborative business activities, including communication with Customer.

10.2 The contract partners shall handle matters of the other contract partner that are not generally known with a level of care customary in business dealings. Additional protection for highly confidential information and the associated determination of requirements each require conclusion of a separate agreement in

writing (non-disclosure agreement). Contract partners shall be entitled to freely utilise ideas, concepts, knowledge and technology related to information processing, except in cases in which property rights forbid this.

### 10.3 Data deletion in the order

10.3.1 Customer alone shall be responsible for complying with legal provisions in data protection laws, particularly those related to the legality of forwarding data to SPIRIT/21 and to the legality of data processing.

10.3.2 Prior to transferring machines, parts, components, etc., Customer shall delete all data (including personal data), that are stored on data carriers to be replaced or given back (including hard drives, storage units, chips, etc.).

10.3.3 If Customer cannot do this in isolated cases due to technical reasons, Customer shall notify SPIRIT/21 of this in writing. SPIRIT/21 shall then be authorised and obligated to delete, as directed by Customer, data stored in data carriers to be replaced or given back (including hard drives, storage units, etc.) before the data carriers are used again, repaired, destroyed or disposed of. SPIRIT/21 shall take technical and organisational actions to ensure that Customer data are safeguarded from misuse, unauthorised access and loss. These actions must comply with the requirements set forth in § 9 (including the appendix) of the German Federal Data Protection Act (BDSG).

## 11. General information

11.1 With the exception of payment claims by SPIRIT/21, the transfer of rights from a contract requires prior written consent from the other party. Consent may only be refused for good cause.

11.2 Before Customer or SPIRIT/21 takes legal steps due to non-fulfilment of a contract condition, the affected party must be granted reasonable leeway to fulfil this condition.

11.3 Customer shall only be entitled to settle if its counter-claim is undisputed or legally valid.

11.4 Amendments or addenda to a contract must be made in writing. This also applies to the written form requirement.

11.5 The law of the Federal Republic of Germany shall apply. By derogation from Sentence 1, the law of the Republic of Austria shall apply to contracts initiated or concluded with SPIRIT/21 IT Services & Solutions GmbH. Also by derogation from Sentence 1, the law of the Swiss Confederation shall apply to contracts initiated or concluded with SPIRIT/21 IT Services AG.

11.6 The place of jurisdiction shall be the location of the headquarters for the SPIRIT/21 company with which the contract was concluded.

11.6 If a condition or section of the contract becomes ineffective, the remaining conditions and contract sections shall remain in effect.

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