

## General Terms and Conditions of INTELLITY GmbH

December 2023

### Preamble

Our General Terms and Conditions shall apply to all our present and future deliveries and services, unless they are modified or excluded by an explicit written agreement with us.

### 1 Delivery

INTELLITY GmbH shall provide the services specified in the contract by professionally qualified employees. These employees are subject to constant control and solely to the instructions of IN-TELLITY GmbH. INTELLITY GmbH will determine which employee will provide the service on the basis of the required professional and personal qualifications.

INTELLITY GmbH is authorized to involve subcontractors as well as vicarious agents or assistants in the provision of services.

### 2 Changes in the scope of services, schedule

Each of the contracting parties may request changes to the agreed scope of work from the other contracting party in written form during the period of the contract. Upon receipt of a request for change, the recipient shall review the change to determine whether and on what terms it is feasible and shall promptly notify the requestor in written form of its approval or rejection and, if necessary, provide reasons for such approval or rejection.

If a change request by the customer requires an extensive review, this will be agreed separately. INTELLITY GmbH may charge for the time and effort required for this review.

The contractual adjustments to the agreed conditions and services required for a review and/or a change shall be specified in a change agreement.

Delivery and performance deadlines will be extended by calendar days during which INTELLITY GmbH reviews change requests, prepares change offers, conducts negotiations with the Client on change offers or, as a result of the change request, the project realization was interrupted at the Client's request, plus a reasonable restart period.

If no agreement is achieved on a change proposal within a period of 21 (twenty-one) calendar days or if, for technical, organizational or economic reasons, a proposal corresponding to the client's change

request cannot be submitted, INTELLITY GmbH shall continue the fulfillment of the contract. In this case, the customer is given the right of termination in accordance with Section 649 of the German Civil Code (BGB).

The schedule for the progress of service provision is the basis for project control and reporting. The schedule can be changed by mutual agreement between the parties. The payment schedule will then change accordingly. If INTELLITY GmbH is unable to meet binding deadlines set out in the schedule for reasons for which the customer is responsible, for example because the customer has not properly fulfilled its obligations to cooperate, the deadlines shall be extended accordingly.

As far as the circumstances underlying the contractual relationship undergo a significant change not taken into account by the terms of the contract, both parties are entitled to demand an adjustment of the contract according to the changed circumstances.

### **3 Cooperation obligations of the customer**

Within the scope of the execution of a contract, the customer is obliged to cooperate. In particular, the customer shall provide specialized personnel in a timely manner, to the appropriate extent and with sufficient qualifications, to perform all services to be performed by it under a contract and to provide the information to be provided to INTELLITY GmbH within a reasonable period of time. The training of the customer's employees that may be necessary for the performance of services is the responsibility of the customer.

The client undertakes to provide the information and documents required for the services of INTELLITY GmbH on its own responsibility, in a timely manner, completely and correctly.

If INTELLITY GmbH operates on the customer's site, the customer shall provide free access to the site, adequate premises and office services and provide INTELLITY GmbH's employees with the necessary access to the computer and communication systems, including hardware and software, to its own personnel involved in the provision of the services, as well as to the customer's documentation and records, to the extent necessary for INTELLITY GmbH to provide the services.

Further obligations of the customer to cooperate may be listed in the offer or individual contract.

## **4 Acceptance of work performance**

In the case of work performances, INTELLITY GmbH shall provide the client with proof of fulfillment of the performance specification in an acceptance test. INTELLITY GmbH may request that partial acceptances be carried out for separable and economically independently usable parts of the performance. In this case, the entire project performance shall be considered accepted upon the last partial acceptance ("Final Acceptance"). Partial acceptances already performed will remain unaffected by the success of the final acceptance.

Upon completion of the services, INTELLITY GmbH shall notify the Client that the services are ready for acceptance. No later than one week after receipt of this declaration, the customer has to perform the acceptance test and declare acceptance by countersigning the acceptance protocol.

The following error classes are agreed upon for the acceptance test:

- Error-class 1:  
The intended use (economically reasonable use) is not possible or unreasonably restricted or hindered by such defects.
- Error-class 2:  
The intended use is basically possible despite these defects and is not unreasonably restricted. Acceptance can be carried out.
- Error-class 3:  
The intended use is not or only insignificantly restricted by these defects. Acceptance can be carried out.

The final assignment of these defects to one of the above defect classes shall be made by mutual agreement between the contracting parties. It must be stated whether the defect is a deviation from the agreed service description or whether it is a change request by the customer. Defects of defect class 1 are "significant deviations", defects of defect classes 2 and 3 are "insignificant deviations". Insignificant deviations do not entitle the customer to refuse acceptance. They will be remedied by INTELLITY GmbH within the scope of the warranty in accordance with a schedule to be drawn up jointly.

Acceptance shall be deemed to have been declared if, although INTELLITY GmbH has sent a reminder to the customer after declaring readiness for acceptance, pointing out the consequences of the expiry of the deadline and setting a reasonable extension of time, the customer fails to declare acceptance even within this extension of time or refuses acceptance without sufficient reason.

## **5 Warranty for work services**

In the case of work performed by INTELLITY GmbH, INTELLITY GmbH warrants that the work corresponds to the agreed description of services. INTELLITY GmbH shall remedy any warranty deficiencies reported by the customer in written form.

The warranty period begins with the declaration of acceptance (clause 4) and lasts 12 (twelve) months.

If a defect is not remedied within a reasonable period of time, the customer may, with respect to the defect, at its option, demand a reduction of the price or, if the value or the suitability of the work is significantly reduced, rescission of the contract.

Further warranty claims are excluded unless liability is assumed due to the absence of a warranted characteristic.

The warranty is void if an object of performance is modified, improperly installed, maintained, repaired or used by the customer or third parties, unless the customer proves that these circumstances are not the cause of the defect complained about.

If the examination of a notice of defect shows that a warranty case does not exist, the costs of the examination and repair will be charged according to the conditions of the respectively valid INTELLITY price list.

## **6 Liability for work performance**

INTELLITY GmbH shall be liable for damages caused by the absence of the features guaranteed by INTELLITY GmbH, for which INTELLITY GmbH has acted with intent or gross negligence, or for which the product liability act provides for mandatory liability.

INTELLITY GmbH is not liable for damages caused by slight negligence. However, INTELLITY GmbH shall be liable for direct damages in the event of a slightly negligent breach of material contractual obligations up to an amount of EUR 250,000 (two hundred fifty thousand euros) or, in excess thereof, up to the amount of the fee for services provided, or, in the case of recurring payments, up to the amount incurred for a twelve-month period.

INTELLITY GmbH shall be liable for the client's proven damage arising from delay if a fixed final date for the performance / handover of the Services agreed in the time schedule is not met for reasons exclusively attributable to INTELLITY GmbH. Compensation for delay shall be limited in amount to 0.5% per week of delay, but not more than 5% of the price of that part of the Services that was not completed on time.

The client assumes as a fundamental contractual obligation to back up data and programs in machine-readable form at reasonable intervals on a regular basis, at least once a day, and thus to ensure that they can be restored with reasonable effort. In the event of a loss of data for which INTELLITY GmbH is responsible, INTELLITY GmbH shall be liable for the restoration only to the extent of the expense incurred if the customer had performed the above data backups.

## **7 Property rights and rights of usage, inventions**

INTELLITY GmbH grants the customer a non-exclusive right of use for all work results completed specifically for the customer in accordance with the service description as soon as the customer has paid the full amount of the invoice for these work results.

Any know-how, techniques and other working methods contributed by INTELLITY GmbH shall remain with INTELLITY GmbH. INTELLITY GmbH shall grant customer a non-exclusive right of use thereto to the extent necessary for the use of the work results.

Any right of use granted by INTELLITY GmbH is transferable to third parties only with the prior written consent of INTELLITY GmbH.

The granting of sublicenses, the transfer of the outcomes to third parties for a period of time or making them accessible in any other way requires the prior written consent of INTELLITY GmbH. INTELLITY GmbH will not refuse such consent without good reason.

With respect to software of third party companies that is part of the subject of delivery and performance of INTELLITY GmbH (Third Party Software), the license terms of the respective third party company attached to such Third Party Software shall apply.

The following shall apply to inventions that were created or developed by one of the contracting parties during the performance of the service and for which patent rights have been registered:

- Inventions made by employees of the client belong to the client and those made by employees of INTELLITY GmbH belong to INTELLITY GmbH. The parties, including their affiliated companies in accordance with § 15 of the German Stock Corporation Act (AktG), grant each other a non-exclusive, irrevocable, worldwide and fee-free license to these inventions and to any industrial property rights granted in respect thereof.

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## **8 Terms of compensation and payment**

The remuneration for the services will be specified separately in the offer, calculated accordingly and become due for payment. Unless otherwise agreed, INTELLITY GmbH will invoice the services on a calendar-monthly basis and in arrears. Services provided over several billing months shall be invoiced at their monthly share in each case.

All travel costs and expenses incurred as a result of or in the context of the execution of the contract shall be invoiced to the customer on a calendar-monthly basis in arrears against receipt of an itemized invoice, unless otherwise agreed.

Hardware and software that is not part of an offer and that is sold to the customer as well as costs for materials will be invoiced separately.

The customer's payments shall be made within 14 (fourteen) days from the date of invoicing without discounts. The invoice amounts are exclusive of the applicable statutory value added tax.

The customer may only offset undisputed or legally established claims and may only assert a right of retention on account of such claims.

In the event of default, interest on overdue payments shall be paid at a rate of 3 (three) % per annum above the base interest rate of the European Central Bank applicable at the time the payment is due. Both parties reserve the right to prove the actual damage.

## **9**

The parties shall treat material and not common knowledge matters of the respective other party with the confidentiality which is usual in business life.

The parties will process or use personal data of the respective other party only for contractually agreed purposes and will share such data with third parties only with the consent of the other party.

It is the client's responsibility to secure personal data prior to the provision of services by INTELLITY GmbH in such a way that unintended access thereto is not possible.

In addition, the privacy policy of INTELLITY GmbH shall apply.

## **10 Schlussbestimmungen**

Neither party may cede rights and obligations from the contract without the prior written consent of the other party.

Changes and amendments to these terms and conditions and the contract require the written consent of both parties. This shall also apply to any waiver of this written form requirement.

The contractual relationship between the parties shall be governed exclusively by German law. The UN Sales Law (Convention on Contracts for the International Sale of Goods of 11.4.1980, UNCITRAL Sales Law) is excluded.

The parties agree that Nuremberg is the exclusive place of jurisdiction for all disputes between the parties arising from and in connection with their contractual relationship.

Should any provision of this contract be invalid in whole or in part or later lose its legal validity, this shall not affect the validity of the remaining terms and conditions. The parties are aware of the case law of the Federal Court of Justice, according to which this clause only reverses the burden of proof. Against this background, the parties expressly clarify that it is their actual intention that this clause not only reverses the burden of proof but also waives the legal consequence of Section 139 of the German Civil Code (nullity of the entire contract). In place of the ineffective provision or to fill the gap, another appropriate provision shall apply, insofar as legally permissible, which comes closest in economic terms to what the contracting parties intended or would have intended if they had considered the ineffectiveness of the provision. The same shall apply insofar as this contract should contain a gap.

INTELLITY GmbH does not accept any provisions that conflict with or deviate from these General Terms and Conditions, unless INTELLITY GmbH expressly agrees to them in writing.

These General Terms and Conditions shall also apply if INTELLITY GmbH provides services without reservation in the knowledge of conflicting or deviating provisions of an order.