

Professional Services

§ 1 General Provisions

The following terms and conditions form the basis of all agreements of the COMPANY for professional services, in particular consulting, training, workshops and implementation support (hereinafter collectively referred to as "Professional Services"), and shall apply exclusively. They shall also apply to future contracts the subject matter of which is Professional Services. Conflicting or deviating terms and conditions of the customer shall only apply if an express written agreement on their applicability has been reached.

§ 2 Subject Matter of the Contract, Scope of Professional Services

2.1. The Professional Services of the COMPANY serve to support the client in its tasks relating to "business process management". No economic success is owed.

2.2. If the Professional Services extend to supporting the client with regard to "derived objectives" (e.g. obtaining a certification), the COMPANY does not guarantee the achievement of such objectives (e.g. an actually successful certification).

2.3. The engagement shall be carried out in accordance with the principles of proper professional practice. The COMPANY is entitled to engage expert persons and other third parties for the performance of the engagement. The COMPANY shall decide at its own discretion which employees are deployed for the performance of the engagement.

§ 3 Duty of Confidentiality, Data Protection and Virus Protection

3.1. The COMPANY shall treat all information and documents of the client that come to its knowledge in the course of the performance of this contract confidentially and shall safeguard them against disclosure to unauthorised persons; this shall also apply beyond the end of the contract. The COMPANY shall oblige its employees to maintain confidentiality, including for the period after termination of the employment relationship. Insofar as the COMPANY engages third parties for the performance of the services under this contract, such third parties and any subcontractors shall be obliged to comply with the data protection provisions contained in this contract.

3.2. The COMPANY is authorised, within the scope of the purpose of the engagement, to process or have processed by third parties the personal data entrusted to it in compliance with the data protection provisions.

3.3. The COMPANY undertakes to check the data carriers it uses for the provision of services before use on the client's data processing equipment or that of its customers to ensure that such data carriers are free of computer viruses identifiable by means of antivirus programs. In fulfilment of this obligation, the COMPANY shall exercise the utmost diligence and employ antivirus programs reflecting the current state of the art.

§ 4 Duty of the Client to Cooperate

4.1. The client undertakes to provide the COMPANY with all necessary support free of charge and, in particular, to provide the information required within the scope of the subject matter of the contract. At the COMPANY's request, the client shall provide appropriate working facilities at the project location and shall also, without any specific request, immediately provide the COMPANY with knowledge of all documents, occurrences and circumstances that may be of significance for the performance of the engagement.

4.2. At the COMPANY's request, the client shall confirm in writing the accuracy and completeness of the documents submitted by the client, as well as its information and oral statements.

§ 5 Remuneration

5.1. The agreed remuneration covers the contractually specified scope of services. Additionally agreed supplementary services shall be remunerated separately. Unless a fixed price is expressly agreed, the remuneration shall be based on the agreed time-based fee. The underlying time estimate is merely an estimate which may be exceeded by up to 25% without any special obligation to notify the client. Only if the effort exceeds this threshold is the COMPANY obliged to draw the customer's attention to the higher time requirement.

5.2. The COMPANY is entitled to issue interim invoices at reasonable intervals.

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5.3. All prices are exclusive of the statutory value added tax.

5.4. The client may only set off claims that have either been established by a final and binding court decision or acknowledged by the COMPANY.

5.5. The client may only exercise a right of retention if its counterclaim is based on the same contractual relationship.

5.6. For Professional Services ordered by the client from the COMPANY "on call" (e.g. training courses, workshops, consulting days for support), an acceptance obligation applies until the end of the respective year. Professional Services not realised during this so-called performance period (until the end of the current calendar year) shall be invoiced by the COMPANY to the client at the end of the year.

§ 6 Time of Performance

If the COMPANY is culpably in default of more than 2 weeks with the observance of a binding performance deadline, the customer may claim liquidated damages for the period of the default of 0.5% per completed week of default, but in total no more than 5% of the value of the service. This shall settle all claims for damages arising from default.

§ 7 Other Claims for Damages

Other claims for damages by the customer, regardless of the legal basis, in particular due to breach of duties arising from the contractual obligation and from tort, are excluded. This shall not apply insofar as liability is mandatory, for example under the Product Liability Act (Produkthaftungsgesetz), in cases of wilful misconduct, gross negligence, due to injury to life, body or health, due to express contractual warranties or the breach of material contractual obligations. Material contractual obligations are those fundamental obligations the fulfilment of which enables the proper performance of the contract and on the observance of which the contractual partner may regularly rely. However, damages for the breach of material contractual obligations are limited to the foreseeable, contract-typical damage, unless wilful misconduct or gross negligence is present, or liability arises from injury to life, body or health, or from a warranty of the absence of a defect. A reversal of the burden of proof to the detriment of the client is not associated with the foregoing provisions.

§ 8 Limitation Period

Claims for damages shall become time-barred within one year from the time the claim arose and the customer became aware of or, without gross negligence, should have become aware of the circumstances giving rise to the claim. This shall not apply if the breach of duty is based on wilful misconduct. In such case, the statutory limitation provisions shall apply.

§ 9 Amendments and Supplements

Amendments and supplements to the contract must be in writing to be effective. This also applies to this written form clause and the waiver of the written form requirement.

§ 10 Governing Law, Jurisdiction

10.1. This contract shall be governed exclusively by the law of the Federal Republic of Germany. The application of the UN Convention on Contracts for the International Sale of Goods is excluded.

10.2. If the customer is a registered merchant (Vollkaufmann), the registered office of the COMPANY shall be the exclusive place of jurisdiction, unless a different place of jurisdiction is mandatorily prescribed.

§ 11 Severability Clause

Should any provision of the contract be or become wholly or partially invalid, or should the contract contain a gap, the legal validity of the remaining provisions shall remain unaffected thereby. In place of the invalid provision or a gap, the contractual partners shall agree on a provision that comes as close as possible to the intended economic purpose of the invalid or incomplete provision.

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Data Protection Information for Customers / Contractual Partners pursuant to the European General Data Protection Regulation (GDPR)

1. Controller of Data Processing and Data Protection Officer

The controller for data processing is ("Company", "we"):

intellior GmbH, Zettachring 12, 70567 Stuttgart, Germany, Phone: +49 (0) 711.68 68 93 – 0, Fax: +49 (0) 711.68 68 93 – 299, E-Mail: info@intellior.com

Our Data Protection Officer: Michael Weinmann, Sielminger Hauptstr. 52/1, 70794 Filderstadt, Tel.: +49 173-763 29 62, E-Mail: michael.weinmann@dsb-office.de

2. Types of Personal Data Used

We process personal data that we receive from you in the course of our business relationship in your capacity as customer/contractual partner or as representative/authorised agent/contact person of the company that is our customer/contractual partner. During the business initiation phase and during the business relationship, personal data is generated by us and by you. For companies, this data essentially relates to the responsible contact person and, where applicable, the company management (managing directors, board members). The personal data typically generated includes: name, salutation, title, address, telephone number, fax number, e-mail address, bank account details or credit card information, your company/firm (with VAT ID), department, position, date of birth, subject matter of the contract, credit assessments, enquiries and correspondence for the conclusion, administration, performance and invoicing of the contract.

3. Purpose and Legal Basis of Data Processing

Your personal data is processed in accordance with the applicable data protection provisions, in particular the GDPR and the German Federal Data Protection Act (BDSG). In detail, this is for the following purposes and on the following legal bases:

a) On the basis of your consent pursuant to Art. 6(1)(a) GDPR: If you have given us consent to process your data for specific purposes, we process your data on the legal basis of that consent.

b) For the performance of contractual obligations pursuant to Art. 6(1)(b) GDPR: Personal data is processed for the purpose of performing contracts, namely for the performance of your contract.

c) For compliance with legal requirements pursuant to Art. 6(1)(c) GDPR: As a company, we are subject to various legal requirements for the fulfilment of tax-related control and reporting obligations.

d) In the context of a balancing of interests pursuant to Art. 6(1)(f) GDPR: We process your data beyond the actual performance of the contract to protect legitimate interests of ourselves or third parties: advertising by e-mail for similar products or by post, provided you have not objected (our legitimate interest).

4. Who Receives My Data?

Access to your personal data is granted to those bodies that require it for the fulfilment of contractual and legal obligations. For billing purposes, we forward the necessary payment data to our bank. Where service providers and vicarious agents are also involved, this is only possible if the legally prescribed obligations and our instructions for the handling of personal data are mandatorily followed. In the processing of information, auxiliary systems (IT environment, CRM/ERP systems, financial accounting) may be used. In such cases, we conclude the necessary data processing agreements.

5. Is My Personal Data Transferred to a Third Country?

A transfer of your personal data to countries outside the EU or the EEA generally only takes place if you have given us your consent or if this is a necessary condition for the performance of a contract.

6. How Long Is My Data Stored?

Your personal data is processed and stored for as long as is necessary for the fulfilment of our contractual and legal obligations. After fulfilment of these obligations, the personal data is regularly deleted. Exceptions: the fulfilment of commercial and tax law retention obligations (between two and ten years); the preservation of evidence within the framework of the applicable limitation periods (up to thirty years pursuant to Sections 195 et seq. of the German Civil Code; regular limitation period of three years until the end of the year).

7. What Data Protection Rights Can I Exercise?

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As a "data subject", you have the following rights vis-à-vis us with regard to the personal data concerning you (Art. 15 et seq. GDPR): the right to confirmation and access (Art. 15 GDPR); the right to rectification (Art. 16 GDPR); the right to erasure (Art. 17 GDPR); the right to restriction of processing (Art. 18 GDPR); the right to object to processing on grounds relating to your particular situation (Art. 21 GDPR). The revocation shall only take effect in the future. Every data subject has the right to lodge a complaint with a supervisory authority (Art. 77 GDPR). Consent given to the processing of personal data may be revoked at any time, including consent given before 25 May 2018.

8. Obligation to Provide Data

We inform you that the provision of personal data is partly required by law (e.g. tax regulations) or may also result from contractual provisions. Sometimes it may be necessary for the conclusion of a contract that a data subject provides us with personal data which must subsequently be processed by us. Failure to provide the personal data would mean that the contract could not be concluded. Before providing personal data, the data subject should contact one of our employees, who will provide case-by-case information on the relevant obligations and consequences.