

## **General Contract Terms and Conditions regulating the provision of services**

This is the translated version of Infopark's German-language document "Allgemeine Vertragsbedingungen über die Erbringung von Dienstleistungen". In all matters, legal or not, only the German version is decisive.

**Valid from 2003-01-01**

### **1 Scope of Application**

The following conditions apply to services which are offered and provided by Infopark AG, referred to hereafter as Infopark.

### **2 Type and Scope of Services**

The type and scope of reciprocal services are regulated by contractual agreements. The following factors are decisive:

- the scope of services defined in the contract, which are deemed appropriate for the stipulated application,
- the conditions stipulated in the contract,
- the conditions stipulated below,
- generally applicable technical regulations and standards, in particular the international standards and recommendations of the Internet Engineering Task Force (IETF), as documented in the Request-for-Comments (RFC) and the W3C (World Wide Web Consortium).

In the event of discrepancies, the contractual agreements apply in the above order.

Further conditions and in particular general terms and conditions of contractual partners do not apply, even if the supplier does not explicitly reject these. The General Terms and Conditions of Infopark AG apply exclusively.

### **3 Organisation**

The contractual partners shall each nominate respective points of contact when commencing with the provision of services.

### **4 Obligations on the Part of the Customer**

The customer is required to ensure that conditions necessary for the provision of services are in place. He is specifically responsible for ensuring that employees and companies, tasked by Infopark with the installation of hardware and software components, are able to do so on site. Any possible obligation to inform the customer of this requirement to implement measures is thus fulfilled. The customer shall also furnish Infopark with the requisite documents and information. If this material should include electronic documentation, the customer shall make these documents available in a standardised, cross-platform and legible format (PDF, ASCII).

#### **4.1 Technical Support**

The customer shall, where necessary, make available personnel from the departments involved for the purpose of technical support.

#### **4.2 Provision of Auxiliary Tools for Services provided on site**

For the duration of services provided, employees of Infopark shall require desks if work is to be carried out on site. These desks shall be provided by the customer and equipped with the standard computer

equipment in use by the customer and necessary for the provision of services. Computer equipment shall include access to a printer, internet access for ssh (Secure Shell), http and https.

#### **4.3 Provision of Auxiliary Tools for Services Provided via Remote Connection**

The customer must ensure that Infopark has free access to the system with the aid of a TCP/IP connection. This can be set up with a call back-based ISDN connection with the customer's routers, with the router configuration specified by Infopark. Alternatively, it is possible for a suitable router to be provided by Infopark, or for access to be enabled via ssh (Secure Shell) over the internet. If the connection should fail to function, or the customer should fail to provide the connection, then work may cease without Infopark providing an additional reason.

#### **4.4 Lack of Access to Auxiliary Tools**

The customer shall provide the desks and TCP/IP connection by for use by the supplier upon commencement of the provision of services. If a lack of access to these desks or the TCP/IP connection necessary for the provision of services should result in the supplier incurring additional expense in order to provide contractual services – be this with or without assistance or negligence on the part of the customer – then the customer shall bear all related costs incurred by the supplier. Furthermore, the supplier cannot be held liable for any damages resulting from a delay in the provision of services.

### **5 Limitations to Liability**

With the exception of cases involving intent or gross negligence, the contractual and tortious liability of the supplier shall be limited in all events to 500,000 EUR for personal injury, 100,000 EUR for damage to assets, property and work in progress and 50,000 EUR for damage incurred due to loss of data. The supplier shall not be liable for the recovery of data if the customer has not conducted regular data backups.

Neither shall the supplier be accept any liability for interruptions to telecommunications connections, interruptions to internet routes, force majeure, or where the fault lies with third parties or with the customer. The supplier shall not be held liable for damage incurred where the customer has revealed passwords or user names to unauthorised parties.

### **6 Scope of Delivery, Reservation of Title**

Infopark retains exclusive title over all deliveries and services supplied by it.

Infopark shall supply executable program files and complete documents for the configuration and installation of services provided. The source code is not included in the scope of deliverables.

Following full payment, the supplier shall transfer to the customer the title of the goods provided and the user rights to the services specified in the contract. Furthermore, following full payment, the supplier shall transfer to the customer the rights of use and rights to edit the products supplied. However, the supplier shall retain the right to utilise the basic concept and program source codes as he chooses.

### **7 Payment Conditions**

Invoices fall payable within fourteen days of billing and without discount. In the event of a failure to provide payment within this period, Infopark may charge late payment fees and interest up to eight percent above the basic rate of Deutsche Bundesbank without prior notice. Furthermore, a delayed payment may result in the discontinuation of services.

The customer is not entitled to issue invoices to Infopark, unless these relate to a legitimate claim or a claim which has been recognised in writing by Infopark.

## **8 Confidentiality, Data Protection**

The contractual parties agree to maintain confidentiality over knowledge obtained within the scope of the contract – in particular technical or economic data as well as other knowledge – and to utilise this knowledge purely for the purpose of fulfilling the terms of the contract. This does not apply to information which is in the public domain, information which is revealed to one of the parties without unauthorised action or negligence, or information which must be released due to the demands of an act of law or legislation.

Wherever it is necessary to process personal data within the scope of this contract, the supplier and customer shall both comply fully with the data protection act.

In accordance with the requirements of the German data protection act (Bundesdatenschutzgesetz - BDSG), Infopark hereby informs the customer that the customer's data shall be stored.

## **9 Subcontractors**

The supplier is permitted to award subcontracts within the scope of providing the contractual services. The supplier must pass on the obligations contained in these general terms and conditions to the subcontractor in this case. The awarding of this form of subcontract is permissible without notifying the customer. The overall liability of the supplier for the provision of services remains unaffected.

## **10 Conclusions**

The place of fulfilment is Berlin. The place of jurisdiction for both parties is Berlin. The law of the Federal Republic of Germany shall apply exclusively. The contract, and amendments and alterations to it, must be in writing.

If a clause should be or prove to be ineffective then this shall not affect the remainder of the contract.

The contractual partners agree to replace the ineffective clause with one which reflects the original intention as closely as possible. The same applies to any loopholes which may come to light.