

# **GENERAL TERMS & CONDITIONS OF BUSINESS (GTC)**

In particular, the customer will indemnify IE2S against claims for damages asserted by third parties against IE2S for infringing upon third-party patents, copyrights, trademarks or other industrial property rights.

- 2.6 IE2S may hire subcontractors for the provision of the services.

## **§ 1 Scope of application**

- 1.1 IE2S provides consulting and support services in the areas of the energy and mobility transition (hereinafter jointly referred to as "services"). These General Terms and Conditions of Business (hereinafter jointly referred to as "GTC") govern the provision of services by IE2S for projects carried out on the basis of service contracts. In the case of contracts to produce a work, the special terms and conditions for contracts to produce a work (hereinafter "STC") shall additionally apply.
- 1.2 IE2S provides services exclusively in accordance with these GTC and, in the case of contracts to produce a work, additionally in accordance with the STC. The customer's contractual terms and conditions do not apply, even if IE2S does not expressly object to them and fulfils the contract.
- 1.3 These GTC, in any current version, also apply to all future business relations between IE2S and the customer, even if no further reference is made to them.
- 1.4 IE2S uses these GTC only for transactions with enterprises within the scope of its business activities.

## **§ 2 Conclusion of contract, scope of services and quality**

- 2.1 Proposals from IE2S are subject to change and are non-binding, unless they are expressly designated as binding or are made to be valid for a limited period. A contract for services is concluded either by signing it or by a written confirmation of the purchase order by IE2S or by the fact that IE2S fulfils the contract.
- 2.2 As a rule, the scope, type and quality of IE2S's services shall be determined by the contract concluded and, unless otherwise agreed, by the project documents and other annexes designated as binding and, in the case of work performance, by the scope statement (cf. § 1 of STC). Other details are only binding if IE2S has confirmed them as binding in writing.
- 2.3 IE2S provides the services in the contractually agreed quality and in accordance with the state of the art at the time the contract is concluded. The customer's specifications must be made in writing.
- 2.4 Information and representations made in product and project descriptions, documentation, etc. do not constitute a guarantee by IE2S for the quality of work results, projects or services, unless IE2S expressly declares this in writing.
- 2.5 If IE2S carries out developments according to the customer's requirements and specifications or if IE2S integrates computer programs or other components from third parties or from the customer himself into developments or adapts its own developments to prespecified components, IE2S shall not assume any responsibility for the technical and legal properties of these third-party components.

## **§ 3 Liaison of the customer**

- 3.1 The customer shall provide IE2S with all information required for the fulfilment of the contract in a timely manner and shall check the work results without delay.
- 3.2 Insofar as it is necessary or useful for the fulfilment of the contract, the customer shall support IE2S in the execution of the contract free of charge by providing access, for example, to employees, work rooms, the corresponding IT environment, telecommunications facilities and data in a timely manner and to the extent necessary, and by liaising with IE2S with regard to specifications, tests, etc.
- 3.3 The customer shall thoroughly test all work results, developments and customisations for usability before operational use. The customer shall back up his data in accordance with the state of the art, check the programmes, carry out fault diagnoses and take other appropriate safety precautions.
- 3.4 In the case of software implementation projects, the prerequisite for the provision of services by IE2S is that the infrastructure provided by the customer and the software to be provided by the customer run flawlessly, both individually and in combination, and that in particular the network fulfils the manufacturer's specifications for the respective software and allows unrestricted operation.
- 3.5 If the customer does not fulfil the obligations to liaise, IE2S will be entitled to withhold the services; this does not affect other rights of IE2S. If IE2S nevertheless provides the service, the additional expenditure will be invoiced in accordance with the applicable price list. This also applies to additional expenses incurred by IE2S for work that had to be repeated due to incorrect, incomplete or subsequently corrected information provided by the customer.

## **§ 4 Performance deadlines, delays**

- 4.1 Performance deadlines will be extended for the period during which IE2S is prevented from providing the services due to circumstances for which it is not responsible (e.g. labour disputes occurring through no fault of IE2S, force majeure, pandemic, employee or hardware failures or delivery failures on the part of suppliers) and for a reasonable start-up period after the hindrance. The same applies to the period during which IE2S is waiting for information, action to be taken by the customer under its obligation to liaise, or the customer's decision as to a supplementary proposal.
- 4.2 Except for payment obligations, IE2S will be deemed to be in default of an obligation only after it receives a dunning letter. The customer shall send dunning letters and set deadlines in writing, otherwise these will be null and void.

Deadlines set by the customer for the performance or cure must be reasonable; as a rule, they may not be shorter than 10 working days.

- 4.3 If a project or contract disruption is through the customer's fault, IE2S will invoice the additional costs in accordance with the applicable price list.

## §5 Fee, terms of payment, set-off

- 5.1 The fee for the services rendered arises from the contract concluded for the services or from the confirmation of the purchase order from IE2S. Unless the Parties have agreed otherwise, the fee will be calculated according to actual time spent at daily rates in accordance with IE2S's current price list.
- 5.2 Unless otherwise agreed, the daily rates cover a working time of 8 hours. Any additional workload per day will be billed on a pro rata basis. A 50% surcharge will be added for weekend and public holiday work and for night work (from 20:00). The travelling time of respective IE2S employees to and from the customer's place of business and services that IE2S provides at other locations at the customer's request will be charged at 50% of the agreed pro rata rate per day. Costs for daily allowances, travelling expenses and accommodation will be invoiced separately. Car journeys will be charged in accordance with the applicable price list, journeys by public transport (1st class rail, business class air) and accommodation costs will be charged according to the expenditure, meals will be charged at a flat rate in accordance with the applicable maximum tax rates.
- 5.3 The services provided (with the exception of agreed fixed prices) are invoiced monthly. Unless otherwise agreed, fixed prices are generally invoiced as follows: 1/3 after concluding the contract, 1/3 after the first agreed milestone has been reached, and 1/3 after the service has been provided. Fees are due and payable without deduction within 14 days of the invoice date. The date on which the payment is credited to IE2S's account is decisive.
- 5.4 All amounts are net of tax; the applicable statutory value added tax and any duties and customs duties must be added.
- 5.5 IE2S may charge default interest at 10% above the base interest rate as damages for default. IE2S has the right to prove that the damage caused by default was higher, the customer that it was lower (but not below the statutory default interest rate). If the customer is more than two weeks in arrears with a payment, IE2S will be authorised to provide no further services until payment has been made. IE2S shall inform the customer of this in writing before discontinuing the services.
- 5.6 The customer may only offset undisputed or legally established claims under the same individual contract/purchase order. The customer has the right of retention or the defence of unperformed contract only within this contractual relationship and only in the event that IE2S itself has committed a gross breach of contract or has already received for a defective service that part of the fee which corresponds to the value of that service, or if the customer's counterclaim has been legally established or is undisputed.

## § 6 Copyrights and rights of use

- 6.1 The customer is granted the non-exclusive, temporally and geographically unrestricted right to use the work results developed for the customer (evaluations, planning and concept documents, in particular software including parameterisations and associated documentation, reports, drawings, etc.) for his own purposes, in his own business and to the contractually agreed extent. The scope of the rights to use work results, in particular software, obtained from third parties will be determined primarily based on their terms of use which IE2S will provide to the customer. Work results that IE2S develops itself and – on a supplementary basis– work results obtained from third parties, are governed by the terms set out in the following paragraphs.
- 6.2 The customer may load software into the main memory and onto the hard drives of the contractually specified type and number of computers within the defined network and use it at the specified number and type of workstations. Within the scope of the contractual use, the customer is authorised to reproduce the software, to make the necessary backup copies, which are to be designated as such, and to use the documentation supplied. As a rule, the customer may not rent out the software, allow it to be used by or use it for any third parties, allow its use under timesharing or as part of Online Services (ASP) and for data centre operations, or otherwise for third parties, whether in return for payment or free of charge, unless IE2S consents to it. Unless otherwise agreed, the customer receives software exclusively in the executable version (machine programme).
- 6.3 All other types of use, in particular translation, editing, arrangement, other reworking and distribution of software and other work results require the consent of IE2S. The customer may not change or disguise the copyright notices, other legal reservations, serial numbers and other features contained in the software and other work results.
- 6.4 The customer may only sell the software and other work results to third parties with the written consent of IE2S. IE2S will grant consent if the customer submits to IE2S a written declaration prior to the transfer that the customer will no longer use the software and other work results and has not retained any copies thereof and if the third party submits to IE2S a written declaration that it will comply with the contractual rules of use and transfer. The customer shall provide the third party with the original data carriers, documentation and other documents.
- 6.5 The Parties are free to expressly mark customised software programs and other work results as "exclusive material" subject to mutual agreement. In this case, the customer is granted the exclusive, transferable, irrevocable and temporally, geographically and materially unlimited rights of use and ownership right to them.

In this case, the customer may reproduce, translate, revise, distribute, make available to third parties for distribution, present, commercially exploit and publicly report on software and other work results. The customer receives the source code including the development documentation and all other documents in copy or in the original version. However, IE2S may develop materials, software and work results similar to the exclusive material supplied to the customer and allow third parties to use them. In all other matters, the provisions on use specified in this paragraph for work results not marked as exclusive material apply accordingly.

- 6.6 If IE2S provides the customer with software developed by third parties, the customer shall in principle be granted rights of use of the type and to the extent corresponding to the licence terms and terms of use of the third party.
- 6.7 IE2S grants the above-mentioned rights of use subject to the condition precedent of full settlement of all claims. IE2S may revoke the granted rights of use for good cause. Good cause is deemed to exist in particular if the customer defaults on the payment of a substantial amount and for a period of more than one month, does not comply with these terms of use or breaches the confidentiality obligation under § 9 and does not immediately cease this behaviour even after a written reminder with a warning of cancellation or even without such a remainder if imminent danger exists. In the event of cancellation, the customer shall surrender the software and other work results in their original versions and, if applicable, their copies, and delete stored programs. At the request of IE2S, the customer shall provide written declaration of the surrender and deletion.
- 6.8 Except where the customer has been granted an exclusive right of use, the customer shall notify IE2S immediately in writing if any third parties wish to access the software or work results; the customer shall inform third parties that IE2S is the owner of all rights to the items and that the customer himself holds only rights of use, which may be conditional and limited.

## § 7 Warranty/claims for defects

- 7.1 The following provisions on claims for defects/warranty apply to services provided by IE2S on the basis of purchase contracts or contracts to produce a work. If the services are subject to service contract law, IE2S may also demand the application of the following provisions in respect of defined, delimitable work results.
- 7.2 Errors within the meaning of the warranty are exclusively reproducible errors whose cause lies in quality defects concerning the services of IE2S, including the services of subcontractors procured by IE2S or the internally developed programme modules introduced by IE2S. A functional impairment resulting from hardware defects, defects in the standard software, environmental conditions, incorrect operation, faulty data, etc. is therefore not an error. IE2S points out that even minor software modifications may lead to considerable, unforeseeable malfunctions in the running of the programme concerned and other programmes. The customer is therefore expressly warned against making any unauthorised modifications to the programmes; the customer bears the sole risk in this respect.

7.3 The customer shall immediately inspect all services provided by IE2S and notify any defects in writing by giving a detailed description. The customer's project manager shall take all reasonable measures to identify, limit and document any errors. This includes the preparation of a defect report, system logs and memory extracts, the provision of the affected input and output data, interim and test results and other documents suitable for illustrating the error. In the event of a warranty claim, the customer shall provide IE2S with all available information and shall support the removal of the defects.

7.4 IE2S may initially fulfil a warranty claim by way of curing the defect. Cure will be effected at IE2S's discretion by providing a new version of the programme or documentation or by IE2S showing ways of avoiding the effects caused by the error. It is not always possible to completely remove an error by way of cure. The customer will accept a new programme version also if this causes a reasonable effort to make appropriate adaptations.

7.5. The Parties categorise errors as follows:

- Category 1: The service cannot be used. It is impossible to remove the error by organisational or other economically justifiable means.
- Category 2: The use of the service is impaired, but can substantially take place. It is possible to remove the error by organisational or other economically justifiable means.
- Category 3: The error has no significant impact on the functionality and usability of the service. The use of the service is not or is only insignificantly limited.

7.6 If cure ultimately fails after more than two attempts despite a reasonable time limit set in writing, the customer is entitled to have the fee reduced or to withdraw from the contract at his discretion. Any other warranty rights are excluded, e.g. reimbursement of expenses for the removal of defects by third parties, delivery of a new item, contract costs.

7.7 If the customer is not able to identify the cause of the error, IE2S will investigate the cause of the error. If IE2S proves that the defect is not attributable to it, in particular because inappropriate hardware had been used, the software is defective or the defect results from manipulation by the customer, IE2S may claim reimbursement of the expenses incurred for its services.

7.8 If IE2S is in breach of a duty the customer may claim damages in lieu of complete performance and withdraw from the contract only after he declares his objection to the performance for this specific reason and notifies IE2S of the specific breach of contract – in situations where the customer is required by law to set a deadline for performance or cure and setting such a deadline may not be dispensed with in the individual case. Furthermore, in the notice setting the deadline, the customer must have warned IE2S that if the deadline expires without result [the defect is not removed] he will refuse performance from IE2S and claim damages in lieu of performance and/or withdraw from the contract.

If IE2S responds to the customer's defect removal request to remedy the malfunction, so as to avoid legal uncertainty, the customer shall, at IE2S's request, finally declare within 10 working days upon expiry of the deadline set whether he desires to continue with the existing contract.

7.9 If third parties assert industrial property rights against the customer, the customer shall inform IE2S thereof immediately in writing. IE2S shall defend itself against or satisfy the claims at its discretion and in consultation with the customer. IE2S may replace the services concerned with equivalent services in compliance with the contractual provisions if this is acceptable to the customer. The customer is not allowed to acknowledge any third-party claims on his own accord. IE2S shall defend itself against third-party claims at its own expense and shall indemnify the customer from all costs and damage associated with the defence against claims, with such indemnification being limited according to the provision in § 8 (Liability) and provided that the respective damage does not result from a customer's breach of duty.

7.10 The limitation period for the customer's claims is:

- 1 year for material defects;
- 1 year for defects in title, unless the defect in title constitutes a right in rem entitling a third party to claim surrender of the delivered device or software; and
- in other cases – in accordance with the statutory provisions.

The statutory limitation period also applies if a material defect or defect in title is deliberately concealed or in the event of intent, malice or gross negligence.

## § 8 Liability

8.1 The following provisions under 8.2 to 8.5 apply equally to customers' claims for damages and/or reimbursement of futile expenses, irrespective of the legal nature of the claim.

8.2 IE2S is only liable for simple negligence in the event of delay in performance, impossibility of performance and other forms of fault-based liability if a duty is breached, the fulfilment of which is essential for achieving the purpose of the contract (cardinal obligation), in the manner described below:

- Liability will be limited in nature to such damage as could typically be expected to occur under the contract at the date of its conclusion. Any liability for financial losses is excluded.
- Liability is limited to 50% of the contract value and a maximum of EUR 150 thousand per claim and a maximum total of 100% of the contract value and a maximum of EUR 500 thousand.
- The accumulated claims from warranty and liability are limited to a maximum cumulative amount of 100% of the contract value and a maximum of EUR 500 thousand.

8.3 IE2S will only bear unlimited liability for gross negligence of its legal representatives and/or executive employees, and/or for intent. For gross negligence of other employees and/or vicarious agents, IE2S will only be liable to the extent and in line with the liability for simple negligence pursuant to § 8.2.

Notwithstanding the above provisions, IE2S will be liable for damage caused by delay due to gross negligence at up to 100 % of the contract value and absolutely up to a maximum of EUR 750 thousand.

8.4 Liability for data loss shall be limited to the typical costs of data recovery that would have been incurred if regular and appropriate data backup measures had been taken. In all other respects, § 254 BGB shall apply to data backup failures by the customer.

8.5 Liability for damage resulting from injury to life, limb or health, under the Act on Liability for Defective Products, due to the absence of warranted characteristics or the absence of the guaranteed quality and/or due to guarantees within the meaning of § 443 BGB or § 639 BGB shall remain unaffected by the above provisions.

## § 9 Confidentiality, storage

9.1 The Parties shall treat as confidential all information and documents they receive or become aware of from the other party during the performance of the contract. These shall not be made accessible to any third parties not involved in the execution of the contract. The Parties shall store and secure these items in a way preventing misuse by third parties.

9.2 The confidentiality obligation does not cover information and documents that were generally known and accessible at the time of their disclosure, or that were already known to the receiving party at the time of their disclosure, or were legitimately made accessible to the receiving party by third parties. This confidentiality obligation shall survive the expiry or termination of this contract.

## § 10 End of the contract, termination

10.1 The customer may terminate the contract to produce a work at any time. In this case, the statutory regulation applies (§ 649 BGB).

10.2 In the case of long-term obligations without a defined end of the contract, unless otherwise contractually agreed, each Party may terminate the contract in writing with a notice period of three months with effect as of the end of the month.

10.3 Each Party may terminate the contractual relationship for a compelling reason. The termination notice must be made in writing, otherwise it will be null and void. A compelling reason is presumed to exist especially if

- the other party suspends its payments, files for insolvency or for instituting comparable legal proceedings, or if such proceedings are opened or their opening is rejected due to the lack of assets;
- claims of the other party are attached and the attachment is not cancelled within two weeks.

Termination for a compelling reason must be preceded by a written reminder including a warning of termination and setting a deadline, unless the delay is unacceptable to the terminating party.

## **§ 11 Arbitration**

- 11.1 The Parties agree that in the event of any disputes related to the contractual relationship which they are unable to settle between themselves, they shall call upon the arbitration board at Deutsche Gesellschaft für Recht und Informatik e.V. (Schöne Aussicht 30, 61348 Bad Homburg) to settle the dispute temporarily or definitively in whole or in part. The Parties assume that the arbitration rules are fair and based on procedural equality, the arbitrators are impartial, arbitration does not result in the establishment of facts binding on the parties, and recourse to state courts remains open.
- 11.2 The Parties mutually waive the defence of the statute of limitations in respect of any and all claims arising from the facts in dispute from the time when arbitration is applied for until one month after the end of arbitration proceedings, so as to facilitate arbitration. The waiver suspends the statute of limitations.

## **§ 12 Final provisions**

- 12.1 IE2S may store the customer's data disclosed in the course of the contractual relationship for internal purposes.
- 12.2 Any amendments and supplementations to the contractual framework must be made in writing, otherwise they will be null and void. The Parties may waive this written form requirement only expressly and in writing. The Parties also comply with the written form requirement by sending documents by fax and email. The appendices form an integral part of the contract.
- 12.3 Should any provision of these GTC or of the contract be or become invalid or should they be incomplete, this shall not affect the effectiveness of the remaining contractual provisions. The Parties shall replace the invalid provision with a provision that comes closest to the meaning and purpose of the invalid provision economically and in a legally effective manner. The same applies to possible loopholes in the contract.
- 12.4 All legal relationships between the Parties are subject to German law excluding the United Nations Convention on Contracts for the International Sale of Goods. The place of fulfilment and the place of jurisdiction for all disputes in connection with this contractual relationship shall be Ludwigsburg. IE2S also has the right to take legal action at the place of jurisdiction for the customer or at any other place of jurisdiction applicable under national or international law.

## **Special Terms and Conditions for Work Performance (STC)**

### **§ 1 Scope of application**

IE2S shall perform the work exclusively in accordance with these Special Terms and Conditions for Work Performance ("STC"). The General Terms and Conditions (GTC) apply additionally and on a supplementary basis.

### **§ 2 Scope statement and project phases**

- 2.1 As a rule, IE2S performs the work on the basis of the requirements and specifications set out by the customer (scope statement). The latter shall check that the specifications listed in the scope statement meet his wishes and needs.
- 2.2 As far as no specifications regarding the performance are made by the customer himself, IE2S is prepared to support the customer in drawing up the scope statement or to draw up the scope statement itself on the basis of a separate assignment and for a separate fee. The customer shall then verify and approve the scope statement drawn up jointly or exclusively by IE2S. If the customer identifies any deficiencies, gaps or contradictions during verification, he shall immediately inform IE2S thereof, and IE2S shall improve the scope statement. Where the improvement does not constitute cure, IE2S may demand a fee for it according to the time spent. The scope statement is the binding basis for the performance of the work. Changes are governed by § 3 of these STC.
- 2.3 If necessary, the Parties shall agree further milestones and performance stages during project development and implementation, upon achievement of which the customer shall verify and approve the performance status. The respective performance status shall be deemed accepted no later than one week after the date on which IE2S submits the respective work results or notifies the customer of achieving the respective performance status, unless the customer gives written notice of any defects in a comprehensible manner.

### **§ 3 Changes and extensions (Change Requests)**

- 3.1 The Parties may request changes and additions to the agreed work performance in written form. IE2S may refuse the customer's request for change or extension if the changes or extensions are not feasible or if IE2S cannot reasonably be expected to perform them within the scope of its operational capacity.
- 3.2 The customer will request IE2S for an analysis of a change request. IE2S shall determine the effects such changes will have on the agreed scope of work performance as well as necessary changes to the schedule, if any, within a period to be agreed by the Parties and shall present them in writing in a supplementary proposal.
- 3.3 For the analysis of a change or extension request and for the preparation of supplementary proposals IE2S may demand a fee according to actual time spent. IE2S may also demand a separate fee for any downtime costs caused by the customer's change request.

Unless otherwise stipulated in the addendum to the contract, performance deadlines shall be extended by the number of calendar days on which the contractual work had to be interrupted due to the change request, as well as by a reasonable restart period.

- 3.4 Changes to the agreed scope of work performance and other contractual amendments shall be agreed in writing in an addendum to the contract. If the Parties do not agree on an amendment to the contract within two weeks of receipt of IE2S's supplementary proposal, IE2S shall perform the contract without taking the change request into account.

### **§ 4 Project management**

- 4.1 Each Party shall appoint a project manager (and, if applicable, a deputy) responsible for the project and the implementation of the contract who shall make the necessary decisions.
- 4.2 In addition to the management, only the project managers and their respective deputies are entitled and authorised to make all project related decisions and declarations of intent, in particular notify defects and declare acceptance.
- 4.3 If IE2S takes minutes of a project meeting, these shall be binding on both parties if IE2S hands them over to the customer and the customer does not object to the minutes in writing stating reasons within one week.

### **§ 5 Acceptance**

- 5.1 In the case of contracts to produce a work the subject matter of which is not the delivery of movable items to be manufactured or produced, the Parties shall carry out acceptance testing. The customer shall submit a written declaration of acceptance as soon as the work has been performed essentially correctly, completely and free of defects. The customer will only refuse acceptance if the performed work has significant defects or defects that cannot be repaired. The customer shall perform acceptance testing in collaboration with IE2S within the agreed period, and in the absence of such an agreed period – within 14 days of IE2S's request for acceptance. During acceptance testing, the customer and IE2S shall jointly draw up a protocol specifying the test cases/test data, performed functional tests, if applicable, and identified defects.
- 5.2 The Parties shall categorise any defects identified during acceptance testing in mutual agreement according to the categories specified in § 7.5 of the GTC. The customer shall declare acceptance if no category 1 error occurs. Category 2 errors shall be removed still during acceptance testing, if possible. Any Category 2 and 3 errors remaining after acceptance shall be removed as part of cure.
- 5.3 Acceptance will also be deemed declared if the customer expresses his approval of the performed work in another way, e.g. if he uses it for productive operation, or does not respond to a request for acceptance (for more than one month in each case), or makes contractual payments.

5.4 In the case of supplies and services for which no statutory acceptance procedure exists IE2S may request that the customer nevertheless declares acceptance/approval in accordance with the terms and conditions in this paragraph. IE2S may also request that the customer declares partial acceptance for definable parts of the work performed. Partial acceptance means that the customer approves the result of the respective partial work performed. During final acceptance, it will only be verified whether the subject matter of the accepted partial work performed is compatible with the subject matters of the other project parts. The outcome of the final acceptance does not affect any partial acceptances that have already taken place.

IE2S  
Intelligent Energy System Services GmbH

Headquarters  
Eberhardstraße  
65  
D- 70173 Stuttgart

Email: [info@ie2s.com](mailto:info@ie2s.com)  
Website:  
[www.ie2s.com](http://www.ie2s.com)

CEO: Dr. Dominique Gross and Heiko Hofele

District Court Stuttgart HRB 778138