

GENERAL TERMS AND CONDITIONS

June 2009

Time-Sharing Management GmbH.

Oberpullendorferstr. 12

A-7304 Großwarasdorf, AUSTRIA

T: +43-(0) 23060 3923

F: +43-(0) 23060 3924

Email: office@t-s-m.com

<http://www.t-s-m.com>

1. General Principals and Scope of Application

- 1.1. Only these general terms and conditions apply exclusively to all contracts between the client and Time-Sharing Management GmbH. (further on called TSM) in their most recent version at the time a contract is signed.
- 1.2. These general terms and conditions also apply to all subsequent contracts even if these do not mention them explicitly.
- 1.3. Contrary general terms and conditions or purchasing conditions of the client are nil and void unless TSM explicitly acknowledges them in written.
- 1.4. Any invalidity of one or several articles of the present General Terms and Conditions shall not render invalid the remaining articles thereof. The invalid articles shall be automatically replaced by valid ones that come closest to the original economical intend.

2. Extend of Consulting Contracts / Subcontractors or Substitution

- 2.1. The services provided by TSM are agreed upon on an individual basis with consulting contracts. These contracts specify the extent of these services. Any verbal agreements and previous written agreements are superseded by new contracts.
- 2.2. A subcontractor is a third party that is contracted by TSM to fulfill the obligations of the consulting contract for and on behalf of TSM. TSM can use subcontracts at its sole discretion and without seeking the client's permission. The client and the subcontractors of TSM do not enter into a contract, henceforth payment of subcontractors is the sole responsibility of TSM.

- 2.3. The client must not conduct business with any legal or physical person working as subcontractor on behalf of TSM for three years after the termination of the last consulting contract. The client must not enter into a consulting agreement or employment contract with any subcontractor when TSM could offer the same consulting services.

3. Duty of disclosure / Completeness Statement

- 3.1. The client has to take the appropriate organizational steps to enable TSM to work efficiently on the client's site.
- 3.2. The client will inform TSM about any on-going or previous consulting services as early and complete as possible.
- 3.3. In a timely manner, the client will provide TSM with the documents that are necessary to conduct its services. The client will also inform TSM about any activities or circumstances that are relevant to the service of TSM. This also applies to activities and circumstances that arise while conducting the service.
- 3.4. The client ensures that his employees and the respective employee representation are informed about the activities of TSM at an early stage.

4. Guarantee for Independence

- 4.1. All parties agree on mutual loyalty.
- 4.2. All parties ensure to take all appropriate measures that are adequate to prevent diminishing the independence of third parties and the employees of TSM. This applies especially to job offers from side of the client towards TSM employees.

5. Reporting

- 5.1. TSM agrees to report to the client on the work progress of its own employees and if applicable those of the subcontractors.
- 5.2. TSM will deliver a final report to the client in a timely manner (2-4 weeks).
- 5.3. TSM is not bound to instructions by the client and always acts at its own discretion. TSM is not bound to provide its services at a specific location nor time.

6. Protection of Intellectual Property

- 6.1. All documents created by TSM or its subcontracts are the sole intellectual property of TSM. This also includes offers, reports, analysis, surveys, advice, programs, organization charts, drafts, calculations and drawings. The client is entitled to use this intellectual property only for the purposes of the service contract and may also do so after contract termination. The client is not entitled to duplicate or distribute the work of TSM to third physical or legal persons. Under no circumstances is TSM liable for unauthorized distribution of its work and the damages occurring thereof.
- 6.2. If the client violates these terms, TSM is entitled to early terminate any contract with the client and claim damages in court.

7. Warranty

- 7.1. The client has the right to request the corrections of errors and shortcomings in the works of TSM. The client has to inform TSM immediately when he gains knowledge of errors or shortcomings.
- 7.2. This right to claim latest expires six months after providing the respective service.

8. Liabilities & Damages

- 8.1. TSM is liable for damages – except physical injuries – only when caused intentionally or grossly negligent. This also applies to damages caused by subcontractors of TSM.
- 8.2. The client can only claim damages within six months after gaining knowledge about them, and at the latest after three years in court after an event that gives rise to claims.
- 8.3. The client has to provide evidence that the damages are due to faults of TSM.
- 8.4. If a subcontractor is responsible for damages, TSM conveys the right to claim damages to the client. The client agrees to claim damages primarily from the subcontractors of TSM.

9. Non-Disclosure Agreement / Data Protection

- 9.1. TSM agrees not to disclose any knowledge to third parties about business matters, especially business processes as well as business secrets gained due to its service contract.
- 9.2. TSM agrees not to disclose the result of its work as well as all documents and data that has been necessary to prepare the results to third parties.
- 9.3. TSM is released from this non-disclosure agreement towards its subcontracts. TSM will in turn enforce a non-disclosure agreement with its subcontractors. A violation of this agreement by the subcontractors is treated as a violation of TSM.
- 9.4. The non-disclosure agreement is binding even after contract termination.
- 9.5. TSM is allowed to process data about individuals as it is necessary to fulfill the consulting contract. The client is responsible to gain permission of those individuals for this processing.

10. Payment

- 10.1. TSM is entitled to receive a respective consulting fee either at the start, while work is in progress or at the end of the consulting services. Given a respective work progress, TSM is entitled to charge the client or is entitled to request up-front payment. The fee is due at the respective billing date.
- 10.2. TSM provides the client with a bill as required by the applicable law, especially with respect to taxes.
- 10.3. The client will be charged with allowances and travelling costs given the respective bills are provided by TSM.
- 10.4. If the consulting services are cancelled due to circumstances under the responsibility of the client or by a justified termination of the contract by TSM, TSM will charge the client with the total amount of consulting contract minus cost savings by TSM. These cost saving are agreed to be the lump-sum of 30 percent of the fee that would have been charged for those services that have not been delivered up to the date of the termination of the contract. In case the contract is based on a daily rate, the total amount is calculated on the basis of the expected days to complete the whole consulting service.

10.5. When the client does not pay interim bills in a timely manner, TSM is not obliged to provide further services to the client. This does not affect the enforceability of due and further payments.

11. Electronic Billing

11.1. TSM is entitled to send bills in an electronic form. The client agrees explicitly that he accepts bills also electronically.

12. Termination

12.1. A contract ends by completing the consulting project

12.2. The contract can be cancelled by either party immediately,

- if the other party violates substantial parts of the contract, or
- the other party is filed bankruptcy.

13. Conclusion

13.1. All parties confirm that all statements in a contract were given faithfully and truthfully, and further agree to make respective changes known to the other party immediately.

13.2. Changes to the contract or these general terms and services as well as changes to the formal requirements are only valid in a written form. There are no verbal side-agreements.

13.3. Austrian law shall apply to any legal disputes. The place of jurisdiction shall be Austria. The application of the UN Sales Convention shall be excluded. TSM offers its services at its venue.