

# General Terms and Conditions

for the provision of services

**innoForce Est.**

Neugrüt 9 • 9496 Balzers • Principality of Liechtenstein  
Phone: +423 / 384 01 00 • Fax: +423 / 384 01 01  
E-Mail: [info@innoforce.com](mailto:info@innoforce.com) • [www.innoforce.com](http://www.innoforce.com)

## Content

1	SERVICES.....	3
1.1	Types of service, Responsibility and Place of Fulfilment .....	3
1.2	Amendments to the work agreed .....	3
1.3	Prices .....	3
1.4	Invoicing and Payment Terms .....	4
1.5	Personnel / Project Organisation .....	4
1.6	Confidentiality .....	4
1.7	Guarantee .....	4
1.8	Ownership of the Product, Copyright, Ideas, Concepts, Inventions and Developments .....	5
1.9	Limitation of Liability .....	5
1.10	Termination .....	5
1.11	Closing Provisions .....	5

# 1 Services

The following provisions govern the performance of services by innoForce. These comprise either the advising and support of clients for the initiation and operation of IT solutions (hereinafter referred to as “system consultation”) or services in connection with the development and implementation of IT projects (hereinafter referred to as “project work”).

## 1.1 Types of service, Responsibility and Place of Fulfilment

The type and scope of the services provided are determined by the specific contract between innoForce and the Client.

**System consultation:** Services of this type are performed in accordance with the commissions and instructions issued by the Client. The services are deemed to have been delivered once innoForce has performed the amount of work described in the order. In addition, system consultation is subject to the law of agency agreement.

**Project work:** For services of this type, innoForce determines the type and method of performance and is responsible for the results achieved in accordance with the performance criteria laid down in the contract. The preconditions to be fulfilled by the Client and the Client’s degree of co-operation are laid down in the contract. The services are deemed to have been performed once innoForce has handed the results listed in the contract (e.g. programs, documentation, evaluations on data media etc) to the Client and has completed the work in accordance with the performance criteria laid down in the contract. Otherwise, project work is subject to the law of contract for work.

Circumstances beyond the control of innoForce such as the effects of third-party systems, programs or services, absence of personnel, inadequate or delayed provision of the prerequisites for performance release innoForce from compliance with agreed performance deadlines and conditions.

In principle, the services are performed in innoForce’s premises - these count as the place of fulfilment - and are only performed at the Client’s premises to the extent laid down in the contract.

## 1.2 Amendments to the work agreed

During the execution of the contracted services, either party can propose amendments to the agreed work in writing. In the event of the Client proposing an amendment, innoForce will respond in writing within 30 days stating whether the amendment is possible and what effects it will have on the contract, especially on deadlines and prices. Amendments to work agreed take effect once innoForce has confirmed the agreement reached with the Client in writing.

## 1.3 Prices

**Fixed price:** If a fixed price has been agreed, it is based on the circumstances known at the time of concluding the contract. If these should change considerably and innoForce was unable to foresee this, innoForce is entitled to agree an amendment to the scope of the service provided, the price and if necessary the timeframe if the change in the circumstances has previously been communicated to the Client in writing.

**Quotations:** Prices quoted in advance are based on the factors known at the time the contract was made and represent innoForce’s best estimate for planning purposes. The services provided will be charged according to the work performed in accordance with the innoForce schedule of charges in force at the time; travelling time is counted as working time. Once the estimated value has been reached (no. of hours worked or price), innoForce requires the Client’s written approval to continue providing service until the

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fulfilment criteria have been satisfied. Without this approval, the customer is obliged to reimburse the costs of labour and material already incurred

**Pricing bases:** innoForce can change the price basis listed in the Contract in writing with three months' notice. In such a case, the Client has the right to terminate the Contract in accordance with Section 1.10 "Termination".

## 1.4 Invoicing and Payment Terms

Services provided at a fixed price will be invoiced in accordance with the payment schedule laid down in the Contract. Services provided according to work performed - including travelling time and possible further disbursements and additional costs - will be invoiced monthly.

The Client shall settle all accounts net within 30 days of date of invoice by transfer to the account stated in the invoice; this counts as the place of fulfilment. Offsetting monetary demands against other obligations from the business relationship requires the written agreement of both Contracting Parties.

## 1.5 Personnel / Project Organisation

When allocating staff, innoForce will endeavour to accommodate clients' special wishes. innoForce may perform the same or similar services for other clients and is not limited in the deployment of staff. innoForce can assign the performance of services to third parties (sub-contractors or sub-suppliers). innoForce assumes the same responsibility for such third-party work as for their own.

## 1.6 Confidentiality

innoForce will instruct their staff or any commissioned third parties to treat all commercial, technical or personal data relating to the Client's business and made available for the purpose of providing services with the same care and discretion which they would exercise in dealing with innoForce's own confidential data.

The obligation of confidentiality does not apply to data which are generally available or are already known to innoForce, neither does it apply to data developed by innoForce independently outside the Contract or acquired legitimately from third parties. In addition, innoForce is not obliged to treat as confidential ideas, concepts, knowledge or methods relating to data processing that were made available to innoForce or were developed by innoForce alone or together with the Client in the performance of services.

The obligation to non-disclosure ends five years after the end of the Contract if not agreed differently on a case-by-case basis.

The Contracting Parties undertake to act in accordance with all relevant data protection legislation in force at the time. The Contracting Parties will place a corresponding obligation on their staffs, suppliers and other parties.

## 1.7 Guarantee

**For Project Work:** innoForce guarantees that at the time of delivery the results of the work carried out meet the fulfilment criteria laid down in the Contract. In the event of a defect being registered in time and with adequate documentation within 60 days of delivery, the Client only has the right to repair or reworking. If innoForce fails to prove that the defined criteria have been met within an appropriate period of time, the Client can demand that the fee charged be reduced by an amount equivalent to the reduction in value. The guarantee does not cover repair or additional effort required as a result of external influences, operator error or other reasons for which innoForce is not liable.

For System Consultation: innoForce guarantees that in the performance of consultancy services they will apply their knowledge and experience together with the generally recognised principles of computer applications to the areas covered by the Contract.

## **1.8 Ownership of the Result of the Work, Copyright, Ideas, Concepts, Inventions and Developments**

The product delivered by innoForce in written or machine-readable form belongs to the Client and may be used by them in accordance with the following conditions.

In the absence of any contractual condition to the contrary, the copyright on the developed materials and evaluations (including documentation, program material and program code on data carrier) supplied to the Client in written or machine-readable form belongs jointly by the Client and innoForce. Each Contracting Party can exercise the powers bestowed by the copyright independently and without limitation and deploy them without acquiring the other Party's permission. Both Contracting Parties have the right to place their copyright mark on materials and evaluations.

Ideas, concepts, knowledge and methods relating to information processing developed in the process of service provision either by innoForce alone or in collaboration with the Client can be used by both Contracting Parties at will. If the provision of services results in patentable inventions or developments, the Contracting Parties shall arrange for the acquisition of patent rights by mutual arrangement.

The Client guarantees not to pass any materials to innoForce which contain legally protected works of third parties or guarantees that they are authorised to provide innoForce with such materials for the purposes of service provision.

## **1.9 Limitation of Liability**

In the event of damage occurring in connection with a guarantee claim under Sect. 1.7. "Guarantee" or for other reasons arising from the present contractual relationship, innoForce's total liability in the case of intent or gross negligence is limited to the greater of the two following amounts: the contract value of the service concerned or € 13,000.00 per damage event. This limitation does not apply to culpably caused personal or material damage or for innoForce culpably breaching its obligations under Sect. 1.6. "Confidentiality". However, innoForce explicitly disclaims all liability for consequential damage such as lost earnings, unrealised savings, interruption of operation or third party claims.

## **1.10 Termination**

The Client may give 30 days notice by registered letter of their intention to forego individual or all services. In such a case, the Client will recompense innoForce for the costs of services already provided according to the amount of work performed. innoForce can only terminate the Contract prematurely by registered letter if the Client breaches the Contract and does not resume their obligations within 30 days of having been given written notice to do so.

Sect. 1.7. "Guarantee", Sect. 1.8. "Ownership of the Result of the Work, Copyright, Ideas, Concepts, Inventions and Developments" and Sect. 1.9. "Liability" remain in force after the end of the individual contract and are binding both on the Contracting Parties and on their legal successors.

## **1.11 Closing Provisions**

The individual contract for services comes into effect once it has been signed by the Client and then countersigned by innoForce. In particular cases, the Contract can be replaced by an order confirmation.

Amendments to or extensions of these General Terms and Conditions and of the individual contract must be in writing and signed by both Contracting Parties.

In the event of conflict between the individual contract, the present "General Terms and Conditions" and the offer, the provisions of the Contract take precedence over these "General Terms and Conditions" and these in their turn take precedence over the offer.

If any term or condition of this Contract be declared invalid for any reason, the remaining terms and conditions will not be affected. In such a case, the Contracting Parties will replace the invalid condition with an arrangement which best suits the economic objective of this Contract and is legally valid.

The competent court in the event of litigation is that of Vaduz. The law of Liechtenstein is applicable. The Parties to the Contract undertake to give priority to an out-of-court resolution of any disputes arising from this Contract.

Balzers, December 2010