

# General Terms of Business of HPC Aktiengesellschaft

## SECTION 1: SCOPE AND CONTRACTUAL OBJECT

1. These General Terms of Business and the respectively updated HPC list of prices and conditions apply to all contractual relations (especially individual contracts and annexes), in which HPC Aktiengesellschaft (hereinafter referred to as "HPC") renders performances for other companies, legal entities under public law or special funds under public law (hereinafter referred to collectively as the "Client"), except for the licensing and maintenance of SAP® standard software.
2. These General Terms of Business apply exclusively. Any deviating, opposing or supplementary conditions – especially the Client's general terms of business – shall only become a contractual component if and to the extent that HPC has expressly agreed to their application in writing. This requirement for approval applies in any event, including if HPC executes a contract without expressly objecting to such conditions. Insofar as the parties in an individual contract wish to deviate from conditions in these General Terms of Business, this shall only be possible when laid down expressly in writing and with reference to the affected provision of the General Terms of Business.

## SECTION 2: CONTRACT INITIATION AND CONTRACT CONCLUSION

1. As a rule, HPC's offers are non-binding unless otherwise agreed in writing. If the Client receives a binding offer, HPC shall be bound to this offer for no longer than four weeks. In cases of doubt, HPC's offer or order confirmation shall be decisive for the contractual content. HPC shall not owe any further quality of the performances or work results beyond the quality specified in the contractual content. In particular, the Client may not derive such an obligation from HPC's other representations in public statements or in HPC's advertising, unless HPC has expressly confirmed the further quality in writing.
2. All terminations, warnings, and setting of deadlines, as well as any other contractual declarations on the part of the Client, must be made in writing to be valid (see Section 16).
3. Commitments of any kind whatsoever, which establish a further warranty obligation on the part of HPC beyond the obligation specified in these General Terms of Business, require express written confirmation by HPC. Guarantees require express written confirmation by HPC's Executive Board.

## SECTION 3: CONTRACTUAL OBLIGATION AND TERMINATION

1. The collaboration requires a high degree of trust, cooperation, and willingness to reach agreement. Any deadlines of the Client that are prescribed by law or contract must amount to at least 10 workdays.
2. Where the unsuccessful expiry of a set deadline should permit the Client to dissolve the contract (e.g. by means of withdrawal, termination or compensation in lieu of performance) or to reduce the remuneration, the Client must threaten such consequences of unsuccessful deadline expiry in writing when setting the deadline. Following expiry of a deadline set in accordance with clause 1, HPC may demand that the Client exercises its rights resulting from deadline expiry within two weeks of receiving the demand.
3. Any performances already rendered shall be billed according to these terms, especially Section 7, where applicable. Section 13 applies to any claims to compensation.
4. Individual contracts concluded based on these General Terms of Business may only be terminated on important grounds, unless otherwise regulated therein.

## SECTION 4: SERVICE PROVISION, EMPLOYEE ASSIGNMENT, AND SUBCONTRACTORS

1. The Client shall specify the task. Task fulfillment shall be planned together on this basis. If necessary, HPC may submit a corresponding written concept. Further details, especially the due performance, shall be determined by the individual contract.
2. The Client shall bear the risk associated with whether the commissioned performances comply with its wishes and needs. In cases of doubt, the Client shall seek advice from HPC's staff or expert third parties in good time.
3. HPC shall decide which employees it assigns, and reserves the right to substitute employees. HPC may also assign freelance staff and other companies within the framework of order fulfillment. HPC shall be responsible for the faults of vicarious agents as if such faults were its own.
4. Even where performances are to be rendered on the Client's premises, HPC is solely authorized to issue its employees instructions. The employees shall not be integrated into the Client's operations. The Client may only issue technical instructions to the HPC project coordinator, not directly to individual employees.
5. If performances cannot be rendered for reasons for which HPC is not responsible, the agreed times shall still be billed unless the Client demonstrates that the affected HPC employees could have been assigned elsewhere.
6. If HPC renders performances beyond the scope of the contract with the consent of the Client, the provisions and conditions of the individual contract shall be deemed as agreed for the performances rendered.

## SECTION 5: COOPERATION OF THE CLIENT

1. The Client shall provide the necessary working environment for the provision of the contractual performances (hereinafter: "IT systems"). It is the responsibility of the Client to ensure the proper operation of the necessary IT systems, if necessary, by means of maintenance agreements with third parties.
2. The Client shall cooperate in order fulfillment to the extent necessary, for example, by providing employees, work rooms, IT systems, data, and telecommunication equipment. The Client shall provide HPC direct access and remote access to the software and the IT systems. The Client shall respond to questions and review results.
3. The Client shall designate a contact partner for HPC in writing and specify an address and email address with which the reachability of the contact partner is ensured. The contact partner must be able to make the necessary decisions for the Client or bring about such decisions without delay. The contact partner shall ensure good cooperation with the contact partner at HPC. The Client's employees, whose involvement is required, must be released from other activities to a reasonable extent.
4. Promptly upon delivery or provision in accordance with the regulations under commercial law (Section 377 of the Commercial Code, "HGB"), the Client shall thoroughly test the work results of HPC – by means of a competent employee – for freedom from defects and for usability in the specific situation before commencing productive use. This also applies to performances which the Client receives in the context of subsequent fulfillment and maintenance.
5. The Client shall take suitable precautions in case the work results are afflicted by faults (e.g. by means of data backup, troubleshooting, and the regular review of results). In the absence of express written information in individual cases, HPC's employees may always assume that backups exist for all data with which they come into contact.
6. Moreover, the Client shall perform all necessary acts of cooperation that are required for contract fulfillment. Where

applicable, the individual contract shall contain supplementary provisions. Insofar as acts of cooperation are due and the necessary details are not already set down in the contract, HPC shall request such acts from the Client in writing with a reasonable lead time, stating the relevant framework conditions. HPC shall promptly inform the Client in writing of any acts of cooperation which it considers insufficient. HPC shall review the feasibility of information provided by the Client and notify the Client of any identified errors. HPC shall not be responsible for providing any further checks or information.

7. The performances due from the Client constitute genuine requirements and do not represent mere formal obligations. Insofar as and to the extent that the Client does not perform the due acts in time, as agreed or at all, and this has consequences for HPC's service provision, HPC shall be released from the duty to render the performances affected. The corresponding service deadlines to be observed by HPC shall be deferred by a reasonable period. Any demonstrated additional costs incurred for HP shall be billed separately based on the agreed conditions, without prejudice to further rights.

#### SECTION 6: SERVICE PERIOD

1. Deadlines are only binding if they have been expressly agreed as such in writing. HPC's duty of execution commences only upon formal acceptance of the concept or technical specifications by the Client.
2. Workdays are weekdays from Monday to Friday (from 8 a.m. to 5 p.m. CET) excluding the statutory public holidays in the state of Baden-Württemberg as well as December 24 and 31.

#### SECTION 7: REMUNERATION, PAYMENT, AND RESERVATION OF OWNERSHIP

1. Unless otherwise agreed in writing, the remuneration is determined by the respectively valid HPC list of prices and conditions.
2. HPC is authorized to bill for partial performances. Payments are due 14 days after the billing date. An early payment discount is not granted. HPC shall charge default interest from 30 days past due. In addition to the default interest, HPC is entitled to the lump-sum payment of 40 euros and compensation for any default damages. All prices are stated before the respectively applicable statutory sales tax, unless the transaction is exempt from sales tax.
3. Billing shall occur on a cost basis upon submission of the activity reports customary at HPC. The Client may only object to the entries therein within two weeks in writing.
4. Travel times, travel costs, and expenses shall be remunerated separately on a cost basis. Travel times and costs arise on travel between the employee's regular place of work and the Client's respective place of assignment, or between the Client's various places of assignment.
5. HPC may demand payments on account or full advance payments if a business relationship does not yet exist with the Client, if delivery is to occur abroad or if the Client has its registered address abroad or if there are reasons that cast doubt on punctual payment by the Client.
6. The Client may only offset with undisputed or legally determined claims. Irrespective of the provision of Section 354a HGB, the Client may not assign its claims to third parties.
7. HPC shall reserve ownership of the delivered hardware, any provided data carriers, and any printed user documentation until complete payment of the agreed remuneration. The Client must promptly inform HPC of any third-party enforcement measures against the reserved goods and submit the documents necessary for intervention; this also applies to impairments of any kind. Notwithstanding the above, the Client must inform third parties in advance of the rights that exist with respect to the goods.

#### SECTION 8: CHANGE REQUEST PROCEDURE

1. The Client may request changes to the agreed performances until formal acceptance of the performances. Change requests must be submitted in writing. HPC shall review the Client's change request and submit to the Client a written change offer promptly – typically within 10 days – subject to the following provisions.
2. Where a change request requires an extensive review by HPC or where a plurality of change requests requires substantial effort overall, HPC may demand a suitable remuneration for the review and preparation of the change offer. HPC shall first notify the Client accordingly in writing and only commence the review and preparation of the offer once the Client has confirmed the review order in writing.
3. HPC is not obligated to submit a change offer if the execution of the change request is not reasonable for HPC. In this case, the contract shall continue to apply unchanged. Unreasonable change requests include those which – independently or together with other change requests – result in a reduction of the originally agreed remuneration by more than 20%.
4. The Client shall review the change offer and notify HPC within 10 days whether it accepts the change offer or not. If the Client does not accept the change offer, the contract shall continue to apply unchanged. The provisions of this paragraph apply accordingly to change requests by HPC.
5. The parties are also free to agree on changes outside this change request procedure.

#### SECTION 9: RIGHTS OF USE AND DEFECTS OF TITLE

1. Upon payment in full of the remuneration agreed up to and including formal acceptance, the Client shall receive a simple, non-assignable right of use to the work results produced by HPC for the purpose of processing its internal business operations and those of such companies with which it is affiliated within the meaning of Section 15 of the Stock Corporation Act (AktG) (referred to as "group companies"). Use exclusively for test purposes is permitted to the extent necessary prior to formal acceptance.
2. HPC shall retain the right to archive the work results and to continue using the know-how obtained during development without restriction, including, for example, to develop new work results on the basis thereof and to provide third parties with these new work results, which may be similar to the work results supplied to the Client.
3. The Client is authorized to create necessary backup copies of the work results. Each backup copy must be marked as such and include the copyright notice of the original data carrier.
4. HPC shall retain the ownership of and the rights (Section 9) to the contractual objects until full settlement of its claims arising from the contract. In the event of a third-party intervention in the reserved good, the Client shall notify HPC immediately in writing and inform the third parties of HPC's rights.
5. HPC guarantees that the contractual use of the work results does not violate any third-party rights. In the event of defects of title, HPC shall perform its warranty obligations by way of subsequent fulfillment by providing the Client a legally sound possibility to use the delivered performance or an exchanged or modified equivalent performance, depending on its choice.
6. If a third party asserts claims that contradict the exercise of the contractually granted right of use, the Client shall promptly inform HPC comprehensively in writing. Where the Client suspends use of the work results in order to mitigate damages or for other important reasons, it shall be obligated to inform the third party that the suspension of use does not constitute acknowledgement of the claimed violation of protective rights. The Client hereby authorizes HPC to conduct the dispute with the third party alone both in and out of court. If HPC exercises this authorization at its discretion, the Client may not acknowledge the claims of the third party without HPC's consent, and HPC

shall be obligated to defend against the claims at its own cost. HPC shall release the Client from the costs and damages that are exclusively attributable to HPC's defense.

7. Section 11 Para. 5 and 6 apply accordingly.

#### SECTION 10: FORMAL ACCEPTANCE

1. Where the due performance requires formal acceptance according to the individual contract, the Client shall carry out formal acceptance. To this end, HPC shall notify the Client of the provision of the performance in writing and in good time (Section 126b of the Civil Code, "BGB").
2. If multiple individual performances are the object of a service contract, which are independently usable for the Client, these individual performances shall be subject to separate formal acceptance.
3. If partial performances are defined in a service contract, HPC may present partial performances for formal acceptance. In the case of subsequent formal acceptances, only the functioning of the new partial performance and the correct interaction with the previously formally accepted partial performances with the new partial performance shall be examined.
4. If the contract includes the creation of a concept, especially for the form, modification or extension of standard software, HPC may demand separate formal acceptance for the concept.
5. The Client must examine the performance result within 15 workdays and either declare formal acceptance in writing or state the identified defects with an exact description and error indication. Insignificant defects do not justify refusal of formal acceptance. If the Client does not submit a declaration within this period and if no significant defects exist, the performance shall be deemed to be formally accepted. After a period of two weeks, the productive use or productive commissioning of (partial) performances by the Client shall in any case constitute formal acceptance of the respective performance in productive use.
6. HPC shall examine the reported defects and eliminate them within a reasonable period in consideration of the severity of the defect. After receiving notification of the elimination of the defect, the Client shall examine the performance result within five workdays. In other respects, Para. 5 applies accordingly.
7. The Client shall set HPC a reasonable grace period to eliminate defects at least twice before asserting further claims and rights against HPC based on the defects. When setting the final deadline, the Client shall inform HPC in writing that it reserves the right to assert the rights and claims to which it is entitled in the event of unsuccessful deadline expiry. Transmission of the declaration in text form (Section 126b BGB) is precluded.

#### SECTION 11: MATERIAL DEFECTS

1. A material defect exists if the due performance does not exhibit the contractually agreed quality or if it is not suitable for the contractually agreed use. Where no quality or use has been agreed, the warranty is such that the performance is suitable for the contractually required or customary use and exhibits a quality which the Client may expect for performances of this nature.
2. The Client must document any occurring defects in a comprehensible manner for HPC and report same to HPC in writing and promptly upon discovery. To this end, the Client shall inspect the work results promptly upon delivery by HPC, provided this is feasible in the ordinary course of business; where a defect is evident, the Client shall report this to HPC without delay. In the event that the Client fails to report defects, the work result shall be deemed to be approved, unless it concerns a defect which was not recognizable upon inspection. If such a defect becomes evident at a later time, it must be reported promptly upon discovery; otherwise, the work result shall be deemed to be approved even with respect to this defect. The Client must merely submit the defect report on time to maintain its rights.

3. In the case of proven material defects, HPC shall fulfill its warranty obligations by way of subsequent fulfillment such that HPC provides the Client a new defect-free performance or eliminates the defect, depending on its choice. Defect elimination may also consist in HPC showing the Client reasonable options to avoid the effects of the defect.
4. If the subsequent fulfillment ultimately fails following expiry of a reasonable grace period set by the Client, the Client may reduce the remuneration or withdraw from the contract or terminate a continuing obligation. The requirements of Section 3 of these General Terms of Business must be observed when setting a grace period. HPC shall provide compensation or reimbursement of futile expenses due to a defect within the bounds defined in Section 13. Other rights due to material defects or defects of title are excluded.
5. The claims under Para. 1, 2 and 3 expire in one year from the beginning of the statutory limitation period for claims due to the material defect or defect of title concerned. This also applies to claims for withdrawal and reduction under Para. 4 clause 1. The reduction of the limitation period does not apply in the event of intent or gross negligence on the part of HPC, concealment of a defect in bad faith, personal injuries or defects of title within the meaning of Section 438 Para. 1 No. 1a BGB.
6. For defects related to subsequent improvements, workarounds or new deliveries in connection with subsequent fulfillment, the limitation period likewise ends at the time defined in Para. 5. However, if HPC examines the existence of the defect or performs subsequent fulfillment with the consent of the Client, the limitation period shall be suspended until HPC informs the Client of the result of its review or declares the completion of subsequent fulfillment or refuses subsequent fulfillment. The limitation period shall expire no earlier than three months after the end of the suspension.
7. Where HPC renders performances in troubleshooting or error rectification without being obligated to do so, HPC may bill for the additional costs according to Section 7. In particular, this applies if a reported material defect is not detectable or is not attributable to HPC. HPC shall also bill for the additional costs of eliminating defects, which are incurred to HPC due to the fact that the Client did not duly meet its duties to cooperate or improperly made use of software or work results.
8. If HPC does not render – or does not duly render – performances beyond the liability for material defects and defects of title, or if HPC otherwise commits a breach of duty, the Client must always report this to HPC in writing and grant HPC a grace period within which HPC is granted the opportunity to duly render the performance or otherwise provide a remedy. Section 3 applies. The restrictions defined in Section 13 apply to compensation or reimbursement of futile expenses.

#### SECTION 12: LIABILITY

1. In all cases of contractual and extracontractual liability, HPC shall provide compensation or reimbursement of futile expenses only:
  - a. without restriction for damages caused by intent or gross negligence and in cases of culpable injury to life, limb or health in accordance with the statutory regulations;
  - b. in the absence of a quality for which HPC assumed a guarantee and only in the amount of the foreseeable damage which is to be covered by the purpose of the guarantee;
  - c. in cases of simple negligence only for a breach of an essential duty if this thereby endangers the contractual purpose, limited to the foreseeable damage typical for the contract. An essential contractual duty is an obligation whose fulfillment makes the proper execution of a contract possible in the first place and in whose compliance the other party may ordinarily trust.
2. The defense of contributory culpability (e.g. from Section 5) remains open. The liability limitations under Para. 1 do not apply to liability for personal injuries or to liability under the Product Liability Act. In the event of data loss caused by simple

negligence, HPC shall only be liable for the damage that would also have occurred had the Client ensured proper and regular data backups in accordance with the importance of the data; this limitation does not apply if data backup was impeded or rendered impossible for reasons attributable to HPC.

3. A limitation period of one year applies to all claims against HPC for compensation or reimbursement of futile expenses for contractual and extracontractual liability. This does not apply to liability due to intent or gross negligence or due to personal injuries or under the Product Liability Act. The limitation period according to clause 1 commences at the time specified in Section 199 Para. 1 BGB. It expires no later than upon expiry of five years from the occurrence of the claim. The deviating limitation period for claims due to material defects and defects of title (Section 11 Para. 5 and 6; Section 12 Para. 3) remains unaffected by the provisions of this paragraph.
4. The above liability restrictions also apply in favor of legal representatives, employees, and vicarious agents of HPC.

### SECTION 13: SECRECY AND DATA PROTECTION

1. The contracting parties undertake to treat confidentially the content of the contracts concluded between them and all knowledge of confidential information and business secrets of the other respective party, which is obtained in connection with order fulfillment, for an indefinite period and only to use same in connection with order fulfillment. They shall protect confidential information against unauthorized access and treat it with the same care, which they apply for their own equally confidential information, or at least with the care of a prudent businessperson.
2. The Client may only make contractual objects accessible to employees and other third parties insofar as this is necessary to exercise the right of use granted to it. In other respects, the Client must keep all contractual objects secret. The Client shall inform all individuals in writing, whom it grants access to contractual objects, about HPC's rights to the contractual objects under copyright law (Section 9) and the duty to keep contractual objects secret and commit such individuals in writing to comply with the duty of secrecy.
3. The Client gives its assurance that it has fulfilled all requirements necessary (e.g. by way of declarations of consent) for HPC to be able to render the agreed performances without breaching data protections provisions in this respect.
4. The Client shall keep the contractual objects safe – especially any source programs and documentation provided to it – to rule out misuse.
5. The parties shall observe the rules of data protection law and shall therefore process and use personal data of the other respective contracting partner in compliance with the provisions of data protection regulations and only for contractually agreed purposes. Insofar as personal data of the contracting partner is processed, the parties shall only entrust this task to those employees who are committed to confidentiality and adherence to data protection. In particular, the parties shall protect personal data against unauthorized access and only forward such data to third parties with the consent of the other party or the data subjects concerned. Where it is necessary for order fulfillment for the Client to grant HPC access to personal data, reference shall be made to the fact that the engaged staff have been informed of their obligations under data protection law and are committed to the regulations of data protection law.
6. HPC is permitted to include the Client in its list of reference clients and may publish this list.

### SECTION 14: FORCE MAJEURE

HPC is not responsible for performance delays resulting from force majeure, equivalent situations (e.g. strikes, lockouts, official orders, general telecommunication disruptions), and circumstances for which the Client is responsible. In these cases, HPC is permitted to

postpone provision of the affected performances by the duration of the hindrance plus a reasonable start-up time.

### SECTION 15: ARBITRATION

The contracting partners agree to invoke the arbitration board of the Deutsche Gesellschaft für Recht und Informatik ([www.dgri.de](http://www.dgri.de)) in case of differences of opinion arising from or in connection with this contract, contractual amendments or supplements, which they are unable to resolve between each other, in order to resolve the dispute provisionally or definitively, in full or in part, according to the valid version of the arbitration regulations applicable at the time the arbitration procedure is initiated. The limitation period for all claims arising from the disputed matter is suspended from the time of the arbitration request to the end of the arbitration procedure; Section 203 BGB applies accordingly.

### SECTION 16: FINAL PROVISIONS

1. The exclusive place of jurisdiction for all disputes arising from and in connection with this contract is Mannheim, provided the Client is a merchant, a legal entity under public law or a special fund under public law.
2. The law of the Federal Republic of Germany applies, with the exclusion of the UN Convention on the International Sale of Goods.
3. Any amendments or supplements to the contract must be made in writing. The written contract concluded between HPC and the Client constitutes the entire agreement of the contracting parties with respect to the contractual object. Written or verbal ancillary agreements do not exist or are rendered void by this contract. The parties are permitted to demonstrate the existence of a supplementary or amending ancillary agreement. The requirement for the written form is met by submitting declarations in text form under Section 126b BGB (e.g. by email or fax), unless otherwise expressly agreed in this contract.
4. Should a provision of these terms or the contract be or become invalid, this shall not affect the validity of the remaining provisions. In this case, the parties undertake to cooperate with serious intent to reach an agreement on the creation of legally valid provisions that come as close as possible to the intended economic outcome of the invalid provision.

As of April 2020

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