



1 Scope and applicability

- (a) These General Purchasing Conditions (the 'GPC') govern contractual relations between Zühlke and the Supplier (the 'PARTIES'). They apply to all SERVICES that Zühlke purchases from the Supplier, regardless of the item involved and even if no reference is made to the GPC in the individual case concerned.
- (b) The Supplier's general terms and conditions do not apply.
- (c) Defined terms always have the same meaning in all documents pertaining to the CONTRACT.

2 Conclusion of the contract and the contractual components

- (a) Offers from the Supplier are valid for 90 days, unless the offer specifies a different period of validity.
- (b) A CONTRACT between Zühlke and the Supplier (the 'CONTRACT') is concluded as follows:
 - (i) by both parties signing a written contractual document (the 'CONTRACTUAL DOCUMENT'); or
 - (ii) by Zühlke signing the offer or an order confirmation from the Supplier.
- (c) The CONTRACT consists of the following components, which shall apply in the following order of precedence in the event of inconsistencies:
 - (i) CONTRACTUAL DOCUMENT or offer or order confirmation;
 - (ii) these GPC of Zühlke;
 - (iii) annexes to the document in section 2(c)(i) above.
- (d) Deviations from the GPC shall only be valid if they are specified in the CONTRACTUAL DOCUMENT, offer or order confirmation.

3 Services

The Supplier is to provide the services specified in the CONTRACT (the 'SERVICES'). These may include the following types of services:

- (a) Project services which are results-based (the 'PROJECT SERVICES')
- (b) Consulting services which are not results-based (the 'CONSULTING SERVICES')
- (c) Deliveries of products (the 'DELIVERIES')
- (d) Granting of licence rights (the 'LICENCES')
- (e) Maintenance services (the 'MAINTENANCE SERVICES')
- (f) Operating services (the 'OPERATING SERVICES')

4 Place of fulfilment and delivery conditions

- (a) The place of fulfilment is the domicile of Zühlke.
- (b) DELIVERIES are made freight prepaid to the domicile of Zühlke with risk being transferred to Zühlke upon handover.
- (c) Partial DELIVERIES are only permitted if previously agreed between the PARTIES.

5 Inspection and acceptance

- (a) The inspection of the SERVICES is not subject to any specific deadline. However, an inspection is to be conducted as soon as it appears reasonable and appropriate under the circumstances.
- (b) A special acceptance inspection is to be carried out and documented accordingly if this has been agreed. In all other cases, acceptance will be considered granted upon complete delivery of the SERVICES.

6 Employees and subcontractors

- (a) The Supplier shall only assign qualified personnel to perform the SERVICE. The Supplier is also obligated to comply with all regulations that apply to its employees (in particular labour, health and safety, social security, and tax provisions).
- (b) In addition, the provisions of the Personnel Leasing Act – in particular – must be observed with regard to leased employees and the Supplier confirms upon conclusion of the CONTRACT that it possesses the necessary authorisation for personnel leasing. It is not permitted to make use of leased employees from foreign countries.
- (c) No contractual relationship (in particular no employment contract) shall arise between the Supplier's personnel and Zühlke as a result of and as part of the SERVICES provided by the Supplier.
- (d) The Supplier indemnifies Zühlke against all claims asserted against Zühlke by personnel, public authorities, or other third parties in connection with a breach of sections 6(a) to 6(c).
- (e) The use of subcontractors requires prior written consent from Zühlke. The Supplier is responsible for the SERVICES provided by its authorised subcontractors as if they were performed by the Supplier itself.

7 Deadlines and default

- (a) The Supplier shall provide the SERVICES in accordance with the deadlines stipulated in the CONTRACT.
- (b) If the Supplier fails to meet a delivery date or a date designated as a milestone, then the Supplier shall be deemed in default without further notice. In the case of other deadlines, default shall only occur after a reminder and expiration of the grace period.
- (c) If the Supplier is in default, Zühlke may, after having set a further grace period, either a) perform the SERVICE owed by the Supplier or have it performed by a third party at the Supplier's expense (substitute performance), b) withdraw from the CONTRACT and demand repayment of the remuneration already paid plus compensation or c) insist that the Supplier perform the SERVICE (subject to the payment of compensation).
- (d) If the Supplier is in default, they shall – in all cases – owe a contractual penalty of 0.5 % of the remuneration for each day of default, up to a maximum of 10 % of the total remuneration. Payment of the contractual penalty does not release the Supplier from its contractual obligations. Zühlke reserves the right to claim further compensation.

- (e) The Supplier is obligated to inform Zühlke in advance and in writing or by email of any foreseeable failure to meet deadlines, to the extent this can be reasonably expected.

8 Cooperation by Zühlke

- (a) As part of its obligation to cooperate, Zühlke shall create the necessary conditions for the Supplier to provide its SERVICES.
- (b) If Zühlke defaults on its obligation to cooperate, then the Supplier must send Zühlke a written warning immediately.

9 Remuneration

- (a) Zühlke shall pay the Supplier the remuneration specified in the CONTRACT, whereby the remuneration is to be calculated either on the basis of time and materials, on a time and materials basis with a cost cap, or as a firm or fixed price (flat rate).
- (b) In the case of remuneration on a time and materials basis, only the time actually worked for Zühlke (excluding travelling time) can be invoiced.
- (c) The remuneration specified in the CONTRACT covers all ancillary costs, expenses, and social benefits for assigned personnel, as well as all taxes and duties etc. associated with the provision of services, with the exception of VAT. Value added tax is to be stated and paid separately.

10 Reporting

- (a) The Supplier shall prepare a report regarding its services in the form and at the time requested by Zühlke.
- (b) The services provided must be itemised according to personnel, date, service content and service duration (if remuneration is based on time and materials).

11 Invoicing

Supplier invoices are payable within 30 days after receipt of the invoice by Zühlke. Zühlke reserves the right to reject the invoice if it is obviously incorrect (e.g. an invoice amount that exceeds an agreed flat rate).

12 Changes to services and additional services

- (a) Changes to services and the ordering of an additional service must be ordered in advance before the relevant SERVICE is actually rendered.
- (b) If the Supplier believes that a SERVICE constitutes a change to a service or an additional service, it must always inform Zühlke of this in writing before the service is rendered.

13 Work results and intellectual property rights

- (a) All work results are the exclusive property of Zühlke. In particular, this also applies to intellectual property rights (copyrights, patent rights and intellectual property rights relating to know-how) that were created by the Supplier alone or in collaboration with Zühlke.
- (b) The Supplier warrants that the personnel and subcontractors that it employs have agreed to this transfer of rights.

14 Warranty

14.1 Notice of defects

Notice of defects can be given throughout the entire warranty period.

14.2 PROJECT SERVICES, DELIVERIES, and LICENCES

- (a) In the case of PROJECT SERVICES, DELIVERIES and LICENCES, the Supplier warrants that these have the properties that were agreed, guaranteed and stipulated.
- (b) The warranty period is two years. It begins with acceptance.
- (c) For defects reported during the warranty period, Zühlke is entitled to have the defects rectified free of charge (in the case of DELIVERY, Zühlke is also entitled – at its own option – to receive a replacement delivery free of charge, unless the defect is only minor). Rectification of the defect (or replacement delivery) triggers a new warranty period.
- (d) If the Supplier is unable to rectify an identified defect (or, in the case of DELIVERY, to make a replacement delivery), Zühlke is then entitled, after granting a reasonable grace period in writing, to rectify the defect itself or have it rectified by a third party (substitute performance) at the Supplier's expense, to reduce the remuneration in accordance with the reduced value or to withdraw from the CONTRACT. In all cases, Zühlke reserves the right to claim compensation.

14.3 CONSULTING SERVICES

The Supplier shall provide CONSULTING SERVICES with the required level of diligence.

14.4 OPERATING and MAINTENANCE SERVICES

- (a) The Supplier shall provide OPERATING and MAINTENANCE SERVICES in accordance with the agreed service levels.
- (b) If agreed service levels are not achieved, Zühlke is entitled to any penalty payment that has been agreed. Zühlke reserves the right to claim further compensation.

14.5 No approval

The utilisation of SERVICES or payment of remuneration by Zühlke will in no case constitute an approval of defects or a waiver of warranty rights.

15 Warranty of title

The Supplier warrants that its SERVICES (including the services of any authorised subcontractors) do not violate any intellectual property rights of third parties. If claims are asserted against Zühlke by third parties for this reason, then the Supplier is obligated to make the situation lawful within a period set by Zühlke. If the Supplier is not successful or if this appears to be futile from the outset, then Zühlke can withdraw from the CONTRACT while demanding the reimbursement of all payments made and claiming compensation. Furthermore, Zühlke has the right to demand that the Supplier litigates the dispute at its own expense. The warranty period for the warranty of title is ten years from acceptance.

16 Export control

The Supplier is obligated to implement and comply with the respectively applicable export control regulations during performance of the work. In particular, the Supplier shall – where necessary and without being asked to do so – inform Zühlke in writing of the export control assessment, particularly in accordance with EU and US law.

17 Compliance

- (a) The Supplier warrants, both in general and for the duration of the contractual relationship, compliance with all applicable laws, ordinances and regulations, including (but not limited to) all anti-corruption laws and regulations as well as regulations against forced labour. The Supplier is obligated to observe the Supplier Code of Conduct of Zühlke (available on the Zühlke

website at [zuehlke_supplier-code-of-conduct_en_final.pdf \(zuehlke.com\)](https://www.zuehlke.com/zuehlke_supplier-code-of-conduct_en_final.pdf)) during the provision of services; the Supplier indemnifies Zühlke against all third-party claims asserted against Zühlke in the event that the Supplier has breached the Supplier Code of Conduct. In particular, Zühlke expects the Supplier to comply with all principles laid down in the UN Global Compact, the International Bill of Human Rights and the Fundamental Conventions of the International Labour Organization (ILO). The Supplier must not have committed any prohibited acts, either directly or indirectly, in connection with the contractual SERVICES under this CONTRACT or any other services rendered for Zühlke, and shall also refrain from doing so in the future. Prohibited acts include making a promise, offer or grant, or requesting or accepting an improper advantage or benefit in order to wrongfully influence actions. Any suspected breaches or possible violations must be reported to Zühlke immediately. Zühlke and its customers have the right to audit the Supplier and check compliance with the provisions of this clause. The audit is to be carried out with prior notice, within a reasonable scope, at the usual location of the Supplier and during normal business hours.

- (b) If the Supplier breaches the obligations under this clause, Zühlke is entitled to terminate the CONTRACT without notice and without incurring any further obligations or liability towards the Supplier. The Supplier fully indemnifies and holds harmless Zühlke against all damage, loss, withholding of payments, debt claims and third-party claims arising from or in connection with the breach of obligations and/or the termination.

18 Liability and period of limitation

- (a) The liability of the Supplier is based on the legal provisions.
- (b) Claims for compensation become time-barred ten years after they arise, irrespective of any shorter warranty periods.

19 Indemnification

- (a) If claims are asserted against Zühlke by third parties or state authorities in connection with SERVICES, the Supplier is obligated to indemnify Zühlke.
- (b) This indemnification (and any further indemnification in the CONTRACT) includes the legal costs incurred by Zühlke in addition to compensation for any legitimate third-party claims.

20 Force majeure

- (a) If a PARTY is prevented from fulfilling its contractual obligations in whole or in part due to force majeure, the PARTY affected shall be released from its liability due to non-performance for as long as the force majeure event continues.
- (b) Force majeure refers to external events that have an effect on the PARTIES and over which the PARTIES have no influence. Force majeure includes, in particular: disruptions of the public power supply and the communications and transportation infrastructure, government measures, viruses or hacking attacks, fire, extraordinary weather events, epidemics/pandemics, nuclear and chemical accidents, earthquakes, wars, terrorist attacks, strikes and sabotage, etc.
- (c) If the force majeure event lasts more than 30 days, either PARTY may terminate the contract with retroactive effect from the time the force majeure event arose.

SERVICES performed up until that date shall be remunerated.

21 Data

- (a) When information from Zühlke is processed, the Supplier is considered the processor (the 'CUSTOMER DATA'). The owner of the CUSTOMER DATA is Zühlke.
- (b) The Supplier is obligated to process CUSTOMER DATA exclusively on behalf of Zühlke and in accordance with data protection legislation and any applicable special laws (e.g. banking supervision, professional secrecy, and telecommunications legislation).
- (c) Zühlke can demand the return of CUSTOMER DATA at any time. Zühlke may also demand, in writing and at any time, that CUSTOMER DATA be deleted by the Supplier.

22 Confidentiality

- (a) The PARTIES are obligated to maintain strict confidentiality with regard to all facts, information and other data that become known to them in connection with a CONTRACT and which the other PARTY has an interest in keeping confidential. The confidentiality obligation also includes the prohibition of use for non-contractual purposes and the mention of Zühlke or its customers as reference customers or in the Supplier's advertising materials without prior written consent from Zühlke.
- (b) The obligation of confidentiality applies beyond the termination of the contract for as long as there is an interest in maintaining confidentiality.
- (c) Information that is generally known or that is lawfully acquired by a PARTY independently of the contractual relationship is not subject to confidentiality. Over and above this, statutory disclosure requirements continue to apply.
- (d) The PARTIES shall ensure that their employees, auxiliary personnel and authorised subcontractors are subject to the confidentiality obligations.
- (e) Zühlke uses cloud services (e.g. Microsoft Office 365) and third-party data centre services for internal and external communication and for the provision of services. The parties agree that this does not constitute a breach of confidentiality obligations. The obligation to maintain confidentiality also applies beyond the termination of the contract.

23 Term of the contract

23.1 Ordinary contract term

- (a) Contracts for PROJECT SERVICES and DELIVERIES end upon fulfilment.
- (b) Contracts for OPERATION and MAINTENANCE SERVICES are concluded for the term specified in the contract and may be terminated by giving the period of notice specified therein. In the absence of an express provision, such CONTRACTS may be terminated by giving three months' notice to the end of a month. If the CONTRACT provides for a minimum term and an automatic extension, termination in accordance with the above sentence is only possible after the minimum term has expired.
- (c) A licence is granted for an unlimited period of time unless otherwise stipulated in the CONTRACT.
- (d) CONTRACTS for CONSULTING SERVICES may be terminated at any time, whereby the terminating PARTY shall compensate the other PARTY for any damage incurred by the other PARTY due to untimely termination.

23.2 Extraordinary termination

- (a) Either PARTY may terminate a CONTRACT for good cause without notice if the other PARTY has committed a serious breach of the CONTRACT or if bankruptcy or composition proceedings have been initiated against it or if it has suspended payments or the provision of other services. The right to premature cancellation of a CONTRACT for PROJECT SERVICES and DELIVERIES in the event of a delay in delivery remains reserved, and is regulated exclusively by section 7(c).
- (b) Prior to extraordinary termination due to a breach of contract, the other PARTY shall be given a written warning with a reasonable grace period if time permits and the terminating PARTY can reasonably be expected to provide one.

23.3 Form

In order to be valid, terminations must be in the written form.

24 Obligations upon termination of the contract

Upon termination of CONTRACTS relating to OPERATING SERVICES and MAINTENANCE SERVICES, the Supplier must hand over all CUSTOMER DATA to Zühlke. In addition, the Supplier shall assist Zühlke upon special request and in return for additional remuneration if Zühlke wishes to transfer OPERATING SERVICES to its own organisation or to another service provider.

25 Final provisions

25.1 Written form

- (a) In order to be valid, amendments or additions to the contractual provisions must be in the written form and signed by both PARTIES.
- (b) Notwithstanding the foregoing, changes to services of minor importance may be agreed upon in meetings of project committees, through the exchange of emails or in a similar manner.

25.2 Partial invalidity and gaps in the contract

The invalidity or contestability of one or more provisions of a CONTRACT will not affect the validity of the remaining provisions. In such a case, the PARTIES shall endeavour to replace the invalid or contestable provision with another valid and enforceable provision that comes as close as possible to the voided provision in its legal and commercial content. The same applies in the event of gaps in the contract.

25.3 Assignment

The transfer of this contract and the assignment of debt claims by the Supplier require the written consent of Zühlke.

25.4 Jurisdiction and applicable law

- (a) A CONTRACT is subject exclusively to Swiss law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 and the Swiss Federal Act on Private International Law.
- (b) Any disputes arising from or in connection with a CONTRACT are subject to the jurisdiction of the courts at the respective registered place of business of Zühlke. Zühlke is also entitled to assert its own claims at the Supplier's registered place of business.