

MATH+TEC

GTC

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MATH.TEC

GENERAL TERMS AND CONDITIONS (GTC)

Math.Tec GmbH (hereinafter referred to as MATH.TEC)

1 Scope of Application

1.1 The following terms and conditions shall apply exclusively to all quotations, orders, deliveries and services, provision and development of software, consulting, training and any related services provided by MATH.TEC.

1.2 Agreements, ancillary arrangements and assurances deviating from these terms shall be effective only if made in writing and duly signed on behalf of MATH.TEC.

1.3 These terms shall be binding for all current and future business transactions with MATH.TEC, even if they are not expressly referred to, for example in oral or telephone orders. The Client accepts these terms, at the latest, by accepting the goods or services.

1.4 Contrary declarations by the Client (CL) shall have no legal effect, even if they remain unchallenged. The Client's purchasing terms are expressly excluded from the entire business relationship.

2 Scope of Services

2.1 The Contractor (CON) may, at its discretion, modify the facilities used to provide the services if no impairment of the services is to be expected.

2.2 Services used by the Client beyond the agreed scope shall be charged according to actual personnel and material expenditure at the Contractor's rates then in force. This includes, in particular, services outside normal business hours and analysis and correction of faults caused by improper handling or operation by the Client or other circumstances not attributable to the Contractor. Training services are generally not included and require a separate agreement.

2.3 Where the Contractor arranges third-party services at the Client's request, the relevant contracts shall be concluded exclusively between the Client and the third party under the third party's terms and conditions. The Contractor is responsible only for services it provides itself.

3 Quotations

3.1 All quotations by MATH.TEC are subject to change and non-binding unless expressly designated as binding.

4 Orders and Conclusion of Contract

4.1 Orders are accepted orally, by telephone or in writing. MATH.TEC will confirm acceptance in writing only at the Client's express request.

4.2 The purchase contract is concluded upon acceptance of the order by MATH.TEC, and in any event upon fulfilment of the order.

4.3 Orders must state the exact registered company name or personal name and billing address.

5 Prices

5.1 All prices quoted by MATH.TEC exclude shipping costs (e.g. transport and insurance) and value-added tax.

5.2 Price lists are subject to price changes, errors and printing errors.

5.3 Repairs shall be invoiced according to actual expenditure (working time and spare parts).

6 Delivery and Delivery Dates

6.1 Stated delivery dates are not fixed deadlines. Partial deliveries are permitted.

6.2 If a delivery date is exceeded by more than 30 days and an additional reasonable period of at least 30 days set by the Client subsequently expires, the Client may withdraw from the contract by registered letter.

6.3 Unforeseen events such as force majeure, mobilisation, war, warlike events or other unrest, transport delays, strikes or other interruptions to production or transport, and other disruptive events shall release MATH.TEC from its obligation to deliver or perform on time for their duration, even if they arise during an existing delay. If they continue for more than 60 days, MATH.TEC may withdraw from the contract in whole or in part. Claims for damages by the Client are excluded in this case as well.

6.4 If, after conclusion of the contract, circumstances arise or become known that cast doubt on the Client's creditworthiness in relation to the order value, MATH.TEC may require advance payment or a bank guarantee and, in the event of refusal, withdraw from the contract without granting an additional period and claim damages for non-performance. Agreed delivery periods shall be suspended upon discovery of insufficient creditworthiness and shall recommence after payment or provision of security.

6.5 The place of performance for delivery and payment shall be MATH.TEC's registered office in Vienna.

7 Notification of Defects, Statutory Warranty and Guarantee

7.1 The Contractor warrants that the software performs the functions described in the accompanying documentation, provided the software is used on the operating system specified in the contract.

7.2 Correction of defects is conditional upon: (a) the Client adequately describing the defect in an error report so that the Contractor can identify it; (b) the Client providing all documentation necessary for correction; (c) neither the Client nor any third party attributable to it having interfered with the software; and (d) the software being operated under the intended operating conditions in accordance with the documentation.

7.3 In warranty cases, rectification shall in all circumstances take precedence over price reduction or rescission. Where a complaint is justified, defects shall be remedied within a reasonable period, and the Client shall enable the Contractor to take all measures required to investigate and remedy them.

7.4 The presumption of defectiveness pursuant to Section 924 of the Austrian Civil Code (ABGB) is excluded.

7.5 Assistance, incorrect diagnoses, correction of errors and faults attributable to the Client, and other corrections, modifications and additions shall be charged by the Contractor. This also applies to rectification of defects where program changes, additions or other interventions have been made by the Client or third parties.

7.6 The Contractor furthermore gives no warranty for errors, faults or damage resulting from improper operation, modified operating-system components, interfaces or parameters, unsuitable organisational resources or data media where prescribed, abnormal operating conditions (in particular deviations from installation and storage conditions), or transport damage.

7.7 Any warranty by the Contractor shall cease to apply to programs subsequently modified by the Client's own programmers or third parties.

7.8 Where an order concerns modification or extension of existing programs, the warranty covers only that modification or extension. The warranty for the original program shall not be revived.

7.9 Warranty claims shall become time-barred six (6) months after handover.

8 Installation

8.1 The Client shall, at its own expense, ensure that all electrical, IT and telecommunications connections and all other necessary preparations are in place at the time of delivery or performance.

8.2 The Client confirms that it was informed of all installation requirements when the contract was concluded.

8.3 The Client shall compensate MATH.TEC for any damage resulting from inadequate preparations.

9 Payment Terms

9.1 Unless otherwise agreed, the invoice amount shall be paid without any deduction within 14 days of the invoice date, either in cash or by receipt of funds in an account of MATH.TEC.

9.2 For orders comprising several units, MATH.TEC may invoice each individual unit after its delivery or performance.

9.3 The Client may not withhold payments due to incomplete delivery, guarantee or warranty claims, or other complaints.

9.4 The Client may not set off claims of any kind against claims of MATH.TEC, except claims established by a final and binding court decision.

9.5 Payments by the Client shall first be applied to interest, charges and costs and then to the oldest outstanding claims, even where these arise from other contracts. Any contrary allocation by the Client shall be ineffective.

10 Interest and Late Payment

10.1 Advance payments shall not bear interest.

10.2 In the event of late payment, MATH.TEC may charge default interest at 9.2% above the applicable discount rate of the Austrian National Bank, plus value-added tax, and reminder charges under the current price list. The Client shall also reimburse MATH.TEC for reminder and collection costs charged by KSV, AKV, D&B or another comparable institution. MATH.TEC may furthermore suspend further deliveries or services in whole or in part until the default is remedied, and withdraw from the contract and claim damages without having to grant an additional period.

10.3 In the case of instalment payments, default on one instalment shall cause all remaining instalments to become immediately due.

10.4 Any arrangements deviating from these payment terms must be in writing and duly signed on behalf of MATH.TEC to be valid.

11 Retention of Title

11.1 Goods shall remain the unrestricted property of MATH.TEC until payment in full, including interest, installation costs and other costs.

11.2 If the Client defaults on payment obligations or breaches other contractual duties, MATH.TEC may, while maintaining the contracts, demand immediate return of all goods subject to retention of title and prohibit their further use.

12 Liability and Damages

12.1 MATH.TEC shall be liable for damage where intent or particularly gross negligence on its part is proven. In all cases, liability for damages shall not exceed the order value. Any further liability is excluded.

12.2 Liability for indirect damage, such as loss of profit, costs associated with interruption of operations, loss of data or third-party claims, is expressly excluded.

12.3 Claims for damages shall become time-barred in accordance with statutory provisions, but no later than one year after the injured party becomes aware of the damage and the party responsible.

12.4 Where the Contractor performs work with the assistance of third parties and warranty and/or liability claims arise against those third parties in that connection, the Contractor assigns those claims to the Client. In such cases, the Client shall primarily seek recourse against those third parties.

13 Client's Duties to Cooperate and Place Orders

13.1 The Client undertakes to support all measures necessary for the Contractor to provide its services. The Client further undertakes to take all measures necessary to fulfil the contract that are not included in the Contractor's scope of services.

14 Rights of Use in Software Products and Documents / Copyright

14.1 Where the Contractor provides software products to the Client or enables the Client to use software products as part of its services, the Client is granted a non-exclusive, non-transferable, non-sublicensable right, limited to the term of the contract, to use the software products in unmodified form.

14.2 For third-party software products provided by the Contractor, the relevant manufacturer's licence terms shall take precedence over the provisions of this section.

14.3 Unless separately agreed, no further rights in software products are transferred to the Client. Participation by the Client in the creation of software shall not confer any rights beyond the use stipulated in the contract. Any infringement of the Contractor's copyright shall give rise to claims for damages, with full compensation payable in such cases.

14.4 If disclosure of interfaces is necessary to achieve interoperability of the software concerned, the Client shall commission the Contractor to provide this against reimbursement of costs. If the Contractor does not comply with this request and decompilation is carried out pursuant to copyright law, the results may be used exclusively to establish interoperability. Misuse shall give rise to liability for damages.

14.5 The Client's rights under Sections 40d and 40e of the Austrian Copyright Act (UrhG) remain unaffected. 14.6 All documents provided by the Contractor to the Client, in particular software product documentation, may neither be reproduced nor distributed in any manner, whether for payment or free of charge.

15 Training

15.1 Training courses, seminars and similar events are based on agreement regarding the language of instruction and materials, the training objective and the participants' prior knowledge. Warranty or damages claims if the training objective is not achieved, in particular because of inadequate language skills or prior knowledge or insufficient attendance by the persons to be trained, are excluded in all cases.

16 Data Protection

16.1 The Client expressly consents to the electronic recording and processing of its company data. MATH.TEC uses these data only internally and does not disclose them to third parties.

16.2 When handling personal data, the Contractor shall comply with the Data Protection Act, the GDPR and the Telecommunications Act and implement the technical and organisational measures necessary for data protection within its area of responsibility.

16.3 Our General Data Protection Terms can be found here.

17 Confidentiality

17.1 Each contracting party undertakes to treat as confidential all trade secrets disclosed to it by the other party in connection with this contract and its performance, and not to make them available to third parties, unless they are generally known; were already known to the recipient without a confidentiality obligation; were communicated or provided by a third party without a confidentiality obligation; were demonstrably developed independently by the recipient; or must be disclosed pursuant to a final and binding administrative or judicial decision.

17.2 Subcontractors affiliated with the Contractor shall not be considered third parties insofar as they are subject to confidentiality obligations equivalent in substance to this section.

18 Final Provisions

18.1 Unless otherwise agreed, the statutory provisions of Austrian law applicable between merchants shall apply, excluding the United Nations Convention on Contracts for the International Sale of Goods.

18.2 Vienna is agreed as the exclusive place of jurisdiction unless an arbitration agreement is concluded with a foreign Client.

18.3 In the event of default, the Client undertakes to reimburse collection costs in accordance with the regulation of the Federal Ministry of Economic Affairs concerning the fees of debt collection agencies.

18.4 If any provisions of these General Terms and Conditions are wholly or partially invalid, this shall not affect the validity of the remaining provisions. An invalid provision shall be deemed replaced by a valid provision that comes closest to the economic purpose of the invalid provision.