



General Terms and Conditions of A1 Telekom Austria AG for Training Services

Version January 2015

The Customer – as named in the purchase order - is a company belonging to Telekom Austria Group. The Customer and the Contractor are hereinafter also referred to as a "Party" and jointly referred to as "Parties".

These General Terms and Conditions for training services (hereinafter referred to as "GTP Training") form an integral part of all contracts concluded with the Customer. The GTP Training shall apply irrespective of any references by the Contractor to its own general terms and conditions or any other of its own general contract or business terms which shall be without any legal effect, even if the Customer does not expressly raise any objections to them. However, the foregoing applies even if the services provided by the Contractor are unconditionally accepted by the Customer although the Customer is aware of the Contractor's conditions, which are contrary to or in conflict with this GTP Training.

1. BASIS OF THE CONTRACT

The mutual rights and obligations are based on the following documents and shall apply with the following order of precedence:

- a) the purchase order,
- b) the service description in the offer of the Contractor mutually agreed with the Customer,
- c) this GTP Training.

2. GENERAL

- (1) The Customer is committed to conducting business honestly, fairly and transparently and in full compliance with applicable laws and regulations.
- (2) Payments effected by the Customer shall not be deemed to constitute confirmation of the due performance of the contract by the Contractor; in particular, they shall not constitute a waiver of the Customer's rights arising from any warranties, guarantees or damages.
- (3) The Contractor shall provide the services free from any directives, with no time constraints and shall not be bound to any specific work place, however only as far as this is compatible with the nature of the services.

- (4) The Customer acknowledges that the Contractor is used to serving multiple clients within different industries. This however, shall only apply subject to the provisions set forth in Clause 3 "Conflict of Interest/Non-Compete obligation and Code of Conduct" and to the extent that by performing the services for the Customer no conflicts of interest arise with third parties.
- (5) Due to the proven expertise of the Contractor, the Customer attaches great importance to having the Contractor perform the agreed service personally. Possible performance of the services by a qualified third party is subject to prior written agreement with the Customer. In such a case the Contractor is fully responsible for the remuneration of this qualified third party and is fully liable for all acts and omissions of such chosen third party as if such acts and omissions were its own. There is no contractual relationship between such third party and the Customer.
- (6) The Contractor shall use its own operating resources (PC, car, etc) but may - subject to prior agreement with the Customer - use the Customer's premises as well as its IT systems. The Contractor shall use the operating resources of the Customer (e.g. the Customer's computer, test-software –and hardware) but only as far as required by the nature of the services provided under the respective contract, in order to protect the intellectual property rights of the Customer as well as for security reasons.
- (7) The Contractor acknowledges that the services under the respective contract are considered to be self-employment income and that there is no employment relationship whatsoever or any other relationship governed by labor law, thus the Contractor is fully responsible for paying the related taxes and social security contributions. The current contractual relationship does not fall under the social insurance contributions pursuant to the General Social Security Act ("ASVG"). Therefore the Customer does not register the Contractor with the general social security system.
- (8) During the term of the agreement on the basis of this GTP Training as well as for the period of six months after the expiration or termination of the respective agreement, no party to the agreement shall actively pursue efforts to hire any of the other Party's employees who are or were key for the provision of the services under an agreement on the basis of the GTP Training.

3. CODE OF CONDUCT

(1) The Customer is committed to conducting business honestly, fairly and transparently. As a matter of course the Customer complies with all applicable laws and principles of business ethics. The Customer also expects such compliance from its suppliers. Moreover, social commitment and climate and environmental protection are of great importance to the Customer.

(2) The Contractor shall ensure that in connection with the performance of this contract all regulations of the International Labour Organisation (ILO) regarding

the rights of workers and their working environment (such as compliance with human rights, prohibition of child labour and forced labour, minimum standards in the area of job safety and health protection, guaranteeing appropriate remuneration, etc.) are adhered to. The Contractor shall ensure that these obligations are binding upon its suppliers.

(3) The Contractor confirms that no intermediaries gain a personal advantage and/or pecuniary benefit from concluding an agreement with the Customer.

(4) The Contractor shall avoid any conflict of interests with the Customer and commits to refrain from any actions that could harm the Customer, in particular that could cause harm to its reputation.

(5) The Contractor ensures its compliance to all legal stipulations.

(6) The Customer rejects corruption and bribery in every respect. Therefore, in particular the Contractor agrees to refrain from demanding or accepting benefits or other advantages that are illegal and/or offensive to common decency, or offering or granting such benefits.

(7) A violation against the provisions of this Code of Conduct is an important reason that would entitle the Customer to terminate the contract with immediate effect.

(8) In this case the Contractor loses any claims on the agreed reimbursement, unless services/deliveries already provided are of use to the Customer. This is without prejudice to the Customer's right to claim damages. The Contractor shall be liable to the Customer for any disadvantages and shall bear all additional costs that may be incurred in connection with a violation against the terms of this Code of Conduct and/or termination due to the default of the Contractor.

4. CONTRACTOR OBLIGATIONS

(1) Provision of Services

- a) The Contractor shall provide the agreed services in conformity with the state-of-the-art of science and technology.
- b) The Contractor is not allowed to use subcontractors without prior written consent of the Customer.

(2) Documentation and Report of Services Rendered

The services or solutions rendered shall be documented in writing/electronically and provided to the Customer upon request at the end of the project at the latest (final report, results log, photo log, participant documentation and handouts).

The attendance list signed by all the participants will serve as performance record for training and coaching services.

(3) Submission of the Offer

In connection with submitting the offer, the Contractor shall breakdown the fees of any fixed price offer. All calculated man-days, the respective man-day rates as well as respective project discounts shall be provided in a transparent and comprehensible manner.

5. ATTENDANCE LIST/EVALUATION

The Contractor shall undertake to create an attendance list and to send it to HR. The fields in the list will be determined by HR.

In order to ensure the quality of the training courses offered, A1 Telekom Austria reserves the right to delegate employees to evaluate the seminars/training sessions. The employees delegated by HR will not be added to the attendance list.

6. FEES, INVOICING, TERMS OF PAYMENT

- (1) Payment is made solely on the basis of service documentation. For training and coaching services the attendance list signed by all the participants will serve as performance documentation.
- (2) The performance of services in advance or the performance of any other services without prior agreement is not permitted and does not constitute the right to claim compensation.
- (3) Unless otherwise agreed invoicing shall be for the preceding month after acceptance of the services rendered. Invoices shall be rendered on the basis of written service documentation. Invoices shall only be deemed to have been duly rendered if they include the order number, date of order, invoice number, the recipient of the services and are in conformity with the regulations on Value Added Tax and are sent in single copies to A1 Telekom Austria AG, A-1004 Wien.

- (4) If invoices have not been duly provided, in particular if invoices include errors or any other deficiencies with regard to content or calculation, the relevant amounts shall not fall due until such deficiencies have been remedied to the Customer's satisfaction and the Customer shall be entitled to return such invoices at any time.
- (5) All invoices exceeding an amount of net EUR 10,000 shall include the Value Added Tax Identification Number of the Customer.
- (6) The assignment or transfer of any Contractor's rights resulting from an agreement based on this GTP Training, including but not limited to the initiation of an agreement shall be prohibited.
- (7) Unless otherwise agreed, all invoices are subject to the Customer's acceptance of the services rendered in writing and to a cash discount of 3% if settled within 30 days from the beginning of the payment period, 2% cash discount for payment within 45 days or payable net within 60 days.
- (8) The period for payment of the fees shall start after the due receipt of the invoice including the respective service documentation or an acceptance protocol, if any. If for whatever reasons an acceptance protocol is not due, the presentation of the respective final report shall be considered as an acceptance protocol.
- (9) The Contractor is only entitled to offset against of the Customer to the extent such claims are recognized by a final court decision or recognized by the Customer itself.
- (10) Provided that value added tax obligations apply, the respective amounts shall be increased by the value added tax to be shown separately on all invoices made out by the Contractor. Furthermore the Contractor is fully responsible for any fees, duties or taxes arising with regard to the payment of the agreed fees, as well as for contributions to social security. However, if the Customer has to bear such associated taxes or social security payments for the benefit of the Contractor due to mandatory law, the fees agreed shall be reduced by that amount.
- (11) Additional services of minor scope, clarifications or the participation in meetings related to a purchase order that are demanded by the Customer, are included without additional costs.
- (12) Any modification of the fees – for whatever reason – is hereby expressly excluded.
- (13) The Contractor shall provide the Customer with all information necessary in order to be able to comply with respective tax laws. Any duties or taxes etc. incurred shall be fully borne by the Contractor. The Contractor shall indemnify and hold the Customer harmless from any and all claims in this respect.

7. PRINCIPLES REGARDING THE CALCULATION OF MAN DAYS

- (1) All expenses, documentation costs, presenter material and travel costs are included in the per diem.

(2) General

- a) Unless otherwise explicitly agreed, travel time shall not be considered part of the working time.
- b) Changes of a personnel or structure nature (i.e. regarding the seniority of an employee) of a member of the training team shall not entitle the Contractor to an automatic change of the applicable man day fee.
- c) In general, a man day consists of a minimum of 8 hours per calendar day. Additional hours exceeding the minimum of 8 hours within a calendar day cannot be charged. If the Customer does not need an entire man day from the Contractor, the Parties will agree to this in advance. In this case, the Contractor will charge the actual hours, but in no event more than 8 hours per calendar day.

8. CANCELLATION

- (1) For cancellations from participants at open training courses (the training courses also open to third parties) no cancellation fees are due.
- (2) However, if the Customer cancels scheduled training sessions/project seminars (specially developed for the Customer) and coaching sessions in their entirety, within the number of working days as listed in the table below, prior to their agreed implementation, for reasons that the Customer is responsible for and not due to illness, an accident or force majeure, the Contractor is entitled to bill the Customer for the percentage of the respective price of the contract value, if the service to be provided is not held on another date to be agreed.

Workdays	Percentage
Up to 15	0%
8 to 14	20%
4 to 7	40%
1 to 3	60%

9. WARRANTY

The contractor guarantees that the trainers/consultants it employs for the respective provision of service have all the necessary qualifications to fulfill the demands posed on them to comply with the contract and to execute the order according to the principles of proper professional practice.

The Contractor shall bear the burden of proof regarding the non-existence of defects or the existence of minor defects only. The Contractor shall also bear any costs and expenses arising in this context. Furthermore, the Contractor shall expressly waive the defense

right with regard to a late notice of defect (article 377 of the Austrian Commercial Code (UGB)).

10. LIABILITY

The Contractor guarantees that it has or will obtain all the necessary permits and that it will comply with all applicable laws and the respective profession specific regulations. The Contractor shall indemnify and hold the Customer harmless from any and all claims, which result from the Contractor's failure to comply with the applicable laws and regulations. Moreover, the statutory provisions on liability shall apply.

11. INFORMATION OBLIGATION AND DUTY TO NOTIFY

- (1) Should any Party become aware of any changes of circumstances which are related to the contractual relationship, the Party concerned shall notify the other Party to this effect in writing and without any delay. Changes in regard to the address of a Party, corporate form of a Party or any contact persons are always considered to be such circumstances. Such notifications shall be in writing and sent by registered mail, however in urgent cases the notification may be submitted orally. However, notification shall still take place and be made subsequently in writing.
- (2) Should the Contractor become aware of any circumstances which might impede the performance of the contract it shall notify the Customer to this effect in writing and without delay and include any measures it is considering.

12. DELAY IN DELIVERY

In the agreed offer, delivery dates or timelines in regard to the services shall be defined and the Contractor shall guarantee to comply with these agreed dates and/or timelines.

In the case of non-compliance with the dates and/or timelines for reasons which are not under the Customer's control, the Customer shall be entitled to either insist on the performance of the contract and to claim liquidated damages (penalty) or to rescind the contract, without prejudice to any contractual penalty or subsequent damage claims, at any time without setting an additional time limit. As penalty for a delay a payment amounting to 3% of the contract value of the respective purchase order per week of delay commenced shall be agreed. This provision shall not affect the Customer's right to claim damages that exceed the said amount. However, any penalty paid shall be credited against any such exceeding damages.

13. RIGHT OF USE AND THIRD PARTY RIGHTS

Regarding all material subject to copyrights made available to the Contractor for the duration of the training course and during the performance of services, the Contractor shall be entitled to the existing license and other copyrights arising from this. The Contractor grants the Customer all transferable rights regarding use of the materials for an unlimited time within the Telekom Austria Group.

- (1) The Contractor holds all rights related to the training documents. However, the Customer is entitled to revise training documents and to copy them.
- (2) The Contractor shall indemnify and hold the Customer harmless from any and all claims, which result from an alleged infringement of third party rights.

14. TERMINATION, TERMINATION FOR CAUSE

- (1) The agreement shall expire in accordance with the respective delivery dates or timelines mutually agreed in the purchase order or in the offer, without this requiring separate notice.
- (2) Either Party may terminate the agreement immediately at any time and without prejudice to any other provisions of this GTP Training for important reasons, in particular, if:
 - a) the other Party repeatedly defaults in the performance of any of its obligations hereunder even after written warning notices have failed to remedy such behavior,
 - b) the other Party commits a material breach of the contract provisions,
 - c) circumstances arise that obviously make it impossible to fulfill the contract on time or
 - d) if the Contractor commits a breach of its obligations under clause 3, "Code of Conduct".
- (3) If the agreement is terminated by the Customer with immediate effect due to the fault of the Contractor, the Contractor commits to reimburse the Customer for any and all additional costs incurred in connection with such termination, including but not limited to contracting the services to a third party. This applies without prejudice to the Customer's right to claim further damages.
- (4) In case of insolvency the statutory provisions shall apply.
- (5) The Customer may terminate the agreement – including but not limited to partial services of the agreement – for convenience by giving the Contractor at least 14 days' prior written notice.
- (6) In case of termination by the Customer, the remuneration of the Contractor shall be the amount due for the achieved results up until the termination in relation to the amount due for the aspired final result, but limited at the maximum to the amount due for services that have been actually performed up until the termination and which have been evidenced accordingly, and finally that are of use to the Customer.
- (7) A notice of termination will only be valid if expressed in writing.

15. CONFIDENTIALITY, DATA PROTECTION

- (1) The Contractor shall treat all information and data which become known to it during the execution of the purchase order/agreement as confidential unless it has been exempted from such obligation in writing by the Customer in each individual

case. The Contractor shall further be obliged to use data which has become known to it only for the purpose of performing the contract. The confidentiality obligation shall continue to apply after termination of any contractual relationships.

- (2) The Contractor agrees that the data and information it provides in performing the contract can be processed by the Customer and transferred to any company belonging to the Telekom Austria Group.
- (3) The Contractor shall disclose confidential information only to employees of the Contractor on a need to know basis and such employees will furthermore be obliged to treat such information as confidential. The Contractor further undertakes to comply with any current security requirements of the Customer and to adhere to any other laws and regulations concerning data protection, in particular those of the Telecommunications Act. By the time the agreement is terminated at the latest, all plans, models, sketches, materials and information of any kind handed over to the Contractor, shall be, at the option of the Customer, either returned to the Customer or shall – if the Customer so wishes, under its supervision – be destroyed.
- (4) In case any agreed confidentiality obligations or legal provisions of data protection are violated by Contractor, Contractor shall pay a penalty amounting to EUR 70,000 for each and every case of infringement. The payment of such penalty shall be without prejudice to any claims by the Customer for damages exceeding said amount.
- (5) The provisions concerning confidentiality and data protection shall continue to apply after complete performance of the agreement by the Contractor and termination of any contractual relationships.

16. MOST FAVORED NATION CLAUSE

The Contractor shall offer to the Customer any more favorable fee or royalty clauses which it has granted to third parties under such an agreement and shall be obliged to amend the agreement accordingly.

17. FORCE MAJEUR

- (1) Neither Party will be liable for delay or failure to fulfill its obligations under this GTP Training due to unforeseen circumstances or causes beyond the affected Party's reasonable control, including but not limited to war, riot, embargoes, acts of civil or military authorities, acts of terrorism or sabotage, fire, flood, accident, strikes, inability to secure transportation.
- (2) The Party concerned is obliged to notify the other Party without any delay. Payment obligations of the Customer shall not apply for any periods when services are interrupted.
- (3) Each Party shall be entitled to rescind the agreement if the interruption of services exceeds one month.

18. MISCELLANEOUS

- (1) This agreement, the hereby established obligation as well as any and all contractual or non-contractual claims arising out of or in connection with it shall be governed by, and construed in accordance with the law of Austria excluding its conflict of law rules as well as the United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980. This also applies to the conclusion of the agreements related to this contractual relationship. For any disputes in connection with the obligation, it is agreed that the exclusive jurisdiction shall be with the commercial court in Vienna.
- (2) Should any of the provisions contained in this agreement be fully or partially void or unenforceable, this shall not in any way affect the validity of any other provision of this agreement. In such case, the Parties are obliged to replace the partly or fully invalid or unenforceable provision by a valid and enforceable provision which is best suited to serve the intended purpose of the provision to be replaced in relation to the overall agreement and which comes closest to the will of the Parties on the date of the conclusion of the contract.
- (3) Unless otherwise agreed, the Parties to the contract shall not be entitled to transfer any rights and obligations arising from the contract, including rights to remuneration and any rights to claim damages, to any third parties without securing the consent of the other Party. Exempted from this regulation, however, is the transfer of rights and obligations by means of universal succession.

In the case of rights and duties being transferred to any universal or singular legal successors of the Customer or to any companies which are controlled by the Customer either directly or indirectly, or which directly or indirectly control the Customer, and to any companies controlled by the latter, the Contractor shall be deemed to have given its consent.
- (4) In cases of dispute, the Contractor shall not be entitled to retain or discontinue any products or services.
- (5) Changes and additions to this contract shall be expressed in writing and are required to be duly signed by the authorized representative(s). Likewise a departure from the requirement of written form will only be valid if expressed in writing.