

## Conditions of Purchase for Services by Freelancers

Dated: 1<sup>st</sup> August, 2014

### 1. Order and Confirmation of Order

- 1.1 The Customer may cancel the order if the Contractor has not confirmed acceptance of the order (confirmation) in writing within two weeks of receipt.
- 1.2 Any alterations, amendments or additions to the order shall only become a part of the agreement if the Customer accepts such in writing. In particular, the Customer is bound by the General Terms and Conditions of the Contractor only to the extent that these are in accordance with the Customer's own General Terms and Conditions or if the Customer agrees to such in writing. The acceptance of deliveries or services as well as payments do not constitute such agreement.

### 2. Performance of Services

- 2.1 The Contractor shall render the services described in the order personally. Orders or parts thereof may not be assigned or subcontracted to third parties without prior written consent of the Customer. If the Contractor fails to obtain such consent, the Customer shall be entitled to withdraw from the contract in full or in part and to demand compensation for damages.
- 2.2 The Customer shall not be entitled to instruct the Contractor in terms of labor-law or disciplinary directives.
- 2.3 The Contractor shall be free to organize and arrange the agreed services in terms of time, place and performance. For the avoidance of doubt, the Contractor is self-employed and independent of the activities of the Customer.
- 2.4 The Contractor may only perform the services at the Customer's premises where this is essential for the proper fulfillment of the order and has been agreed in writing beforehand. In this case the Customer shall grant the Contractor access to the appropriate premises.
- 2.5 By rendering the services the Contractor does not enter into an employment relationship with the Customer, even if the Contractor performs the services at Customer's premises.

### 3. Duty to Inform

Unless expressly agreed otherwise, the Contractor shall keep the Customer informed about the progress of the services carried out on behalf of the Customer.

### 4. Cooperation between the Contracting Partners

- 4.1 The Customer shall provide the Contractor with such information as is required for the provision of the services and any associated change requests exclusively via the named contact person.
- 4.2 The Contractor shall receive all texts, documents, information and data in the agreed data format by the Customer which the Customer considers necessary for the provision of the services, where these are not otherwise available to the Contractor. If the Contractor does not consider the information to be sufficient, the Contractor shall advise the Customer to this effect immediately.
- 4.3 The Contractor shall perform the services with the greatest care and state-of-the-art of science and technology, in order to enable the best possible result to be achieved. The services shall incorporate the Customer's specifications with regard to terminology and layout, for example. If it has been agreed that the Contractor is to design training material for provision of the services, approval of this material must be obtained from Customer prior to use.
- 4.4 The Contractor may only promote, offer, use or sell its own material, media, courses, documentation or other services with the explicit written permission of the Customer.

### 5. Acceptance of Work Services (Werkleistungen) and Liability for Defects

- 5.1 Work services (Werkleistungen) shall be subject to acceptance testing once they have been completed by the Contractor. Following completion of acceptance testing, the Customer shall declare acceptance of the work services in writing or in other appropriate form provided the relevant work services are free from defects.
- 5.2 If services performed by the Contractor turn out to be defective, the Contractor shall at the Customer's discretion either remedy these defects or perform the services again without defects, within

a reasonable period and at the Contractor's own cost. If the Contractor fails to remedy the defects or perform the services again without defects despite being given a reasonable time limit, the Customer may withdraw from the contract or reduce the remuneration by a reasonable amount, or remedy the defect or have it remedied at the Contractor's cost and demand compensation for damages in lieu of performance.

- 5.3 The warranty period for material deficiencies is three years, insofar as no statutory provisions provide longer periods.
- 5.4 The warranty period for deficiencies in title is five years, insofar as no statutory provisions provide longer periods.
- 5.5 Further or other claims and rights remain unaffected.

### 6. Travel Costs

- 6.1 Travel and accommodation costs shall be reimbursed to the Contractor if the Customer has given its prior consent in writing or by E-mail to pay the travel costs of the Contractor. In such cases, the (net) travel and accommodation costs shall be reimbursed only upon presentation of copies of the relevant original receipts, showing the input tax amounts contained therein (with the exception of lump sums and mileage) and after deduction of possible input tax amounts, as follows:

<u>Rail</u>	2nd class
<u>Air</u>	Economy class
<u>Mileage Allowance</u>	in accordance with tax authority guidelines
<u>Lump sum overnight accommodation</u>	in accordance with tax authority guidelines or by arrangement with the project manager/ coordinator, on presentation of copies of relevant receipts including higher overnight accommodation costs

- 6.2 Prior to commencing any travel, the Contractor shall agree the details with the Customer (such as, for example, work location, dates, selection of hotel category and class of car if using a hired vehicle or private car instead of traveling by rail or air), whereby the most suitable and cost-effective form of transport will be chosen, taking into account the urgency of the matter.

### 7. Remuneration

- 7.1 As remuneration for the services and the rights of use granted to the Customer under Clause 11 below, the Customer shall pay the agreed amount to the Contractor following correct and timely performance of the services.
- 7.2 If the Contractor is of the opinion that any specifications of the order or change requests made by the Customer pursuant to Clause 4.1 or other circumstances for which the Customer is responsible result in increased work effort, the Contractor shall notify the Customer of this fact without delay in writing. The parties shall then come to an agreement in writing on an appropriate raise of remuneration. If the Contractor fails to give immediate notification in writing, the Contractor may not claim any raise of remuneration.

### 8. Invoices

- 8.1 The Contractor shall issue the invoice for the rendered services including any agreed additional costs (travel and accommodation costs), applicable VAT (where the services are subject to VAT legislation), and copies of the respective proof of performance accepted by the Customer. The due taxation of all payments for income tax purposes and, where applicable, the deduction of VAT and the payment of social insurance contributions shall be within the responsibility of the Contractor. If the reverse-charge process is used for the services performed by the Contractor, the latter shall present the invoice without setting out VAT and refer to this fact by adding "Tax liability of the service recipient / Reverse Charge" to the invoice.
- 8.2 The order codes and numbers for each individual item shall be shown on the invoices. Invoices are not payable if these details are not included. Duplicate invoices shall be marked as such. If hourly remuneration is agreed, the relevant time sheets countersigned by the Customer shall be attached to the invoice.

### 9. Payment

- 9.1 Unless otherwise agreed, payments shall be due and payable no

later than 30 days net. If payment is made within 14 days, Customer is entitled to a 3 % discount.

- 9.2 The period for payment shall commence as soon as any delivery or service is completed and a correctly issued invoice is received.
- 9.3 Insofar as the Contractor is required to provide material testing, test records or quality control documents or any other documentation, such shall be a part of the requirements of the completeness of the delivery or performance. A discount shall also be allowed if the Customer sets off or withholds any payments to a reasonable extent on account of any deficiency.
- 9.4 Payment does not constitute an acknowledgement that the corresponding delivery or services were provided in accordance with the Contract.

## 10. Delay

- 10.1 Decisive for the timely performance of the services is whether the agreed deadlines for performance have been met or, where the services are subject to acceptance testing, on the successful and complete acceptance testing of the services.
- 10.2 If a delay in performance of the services or parts thereof or in their supplementary performance becomes foreseeable, the Customer shall be notified to this effect immediately and its decision shall be obtained.
- 10.3 If the Contractor falls behind schedule with the performance of the services, the Customer is entitled to demand a penalty for each working day (or part thereof) of the delay of 0.3 % of the order amount, up to a maximum of 5 % of the order amount.
- 10.4 If the delay concerns a binding intermediary deadline (contractual deadline), the basis for the calculation of the penalty shall be the services which were to be performed until the end of the intermediary deadline. Penalties for exceeding intermediary deadlines shall be deducted from the penalty for exceeding the final completion date.
- 10.5 If there is a delay with regard to a specific, fixed date (*Fixtermin*), the Customer is entitled to demand a penalty of 5 % of the respective order amount for this specific date and/or to withdraw from the contract.
- 10.6 The penalty does not release the Contractor from its delivery and service obligations. The penalty may still be claimed if the reservation of rights is made until the date of final payment.
- 10.7 Further or other claims and rights remain unaffected.

## 11. Rights of Use

- 11.1 The Customer shall whenever created own all rights, title and interest in the results of the services (hereinafter called "results") regardless of the stage of development reached. The Contractor shall keep the results for the Customer safe until they are transferred. The Contractor grants to the Customer the exclusive, worldwide, transferable, sublicenseable and unrestricted right, to modify, to have modified, to use, to have used, to publish, to have published, to distribute, to have distributed, to utilize or to have utilized the results in their original form and as extended or modified by the Customer.
- 11.2 If and to the extent the Customer and/or a third party, that has a contractual relationship with the Customer, requires Contractor's methods, processes, management tools, concepts, ideas and other know-how, that the Contractor has developed, created or generated before or in course of the performance of services ("Background Know-How"), in order to make use of the results, Contractor shall grant the Customer a perpetual, unrestricted, worldwide, royalty free, non-exclusive, sublicenseable, and transferable right to use or have used such Back-ground Know-How.
- 11.3 If the results contain inventions or ideas which are patentable or otherwise eligible for registration, the Customer is entitled, at its discretion and in its own name, to apply for such property rights in any countries, to maintain these rights or to abandon them at any time. If necessary the Contractor shall assist the Customer with the application; the Contractor shall refrain from any activity that may impede the application and efficient exploitation of the rights by the Customer. The property rights incurred as a result of such applications belong to the Customer.
- 11.4 The Contractor hereby waives its right to authorship credit with respect to the results, unless otherwise agreed in the individual case.

11.5 The Contractor undertakes to ensure that the inventions or ideas arising in the course of the performance of the services are transferred to the Customer free of further charge or further cost.

11.6 If services are performed by a third party on behalf of the Contractor in accordance with Clause 2.1, the Contractor shall at all times assure that all rights as described in this Clause 11 are enjoyed by the Customer exclusively, worldwide and without any time limit, or other restriction, and also that they are not affected in any way by a termination of the contract between the Contractor and the third party.

## 12. Open-source software

- 12.1 The Contractor shall provide an undertaking that his Services do not include Open Source Software or only include such software whose use by the Customer has been approved in advance in writing.
- 12.2 "Open source software" within the meaning of these provisions is software which is transferred by the rights holder to any user, free of charge, with the right of processing and/or distribution on the basis of a license or other contractual provision ("free license"). Free licenses include the following, which are only listed here by way of example: GNU General Public License (GPL), GNU Lesser GPL (LGPL), BSD License, Apache License or MIT License.
- 12.3 If the Contractor requests permission to use open source software, the Contractor shall, without prejudice to his obligation to observe the free license conditions,
- place the source code for the open source software to be released at Siemens' disposal, and
  - hand over a list of all open source software files to be used, together with a notice of the respectively applicable license, a copy of the full license text and the existing copyright notices.

## 13. Provision of Material, Information

- 13.1 Material and information provided by the Customer remain the property of the Customer and are to be stored, labeled as property of the Customer and administered separately and free of charge. Their use is limited to the orders of the Customer only. The Contractor shall supply replacements in the event of reduction of value or loss, for which Contractor is responsible, even in the event of simple negligence. This also applies to the transfer of allocated material.
- 13.2 Any processing or transformation of the material shall take place for the Customer. The Customer shall immediately become owner of the new or transformed product. Should this be impossible for legal reasons, the Customer and Contractor hereby agree that the Customer shall be the owner of the new product at all times during the processing or transformation. The Contractor shall keep the new product safe for the Customer at no extra cost and in so doing exercise the duty of care of a merchant.

## 14. Release of Documents

The Contractor shall release all documents and other tools, including copies thereof, that it has received or produced in connection with the order, immediately after acceptance testing or transfer of the results or, if acceptance testing or transfer is not possible because of the type of results, after execution of the services.

## 15. Confidentiality, Data Protection, Information Security

- 15.1 The Contractor shall treat as confidential the results, as well as the knowledge and findings, documents, terms of reference, business processes or other information that it receives from or about the Customer in the context of performing the services, as well as the conclusion of the contract, with regard to third parties other than those involved in the provision of the services in accordance with Clause 2.1 - and shall keep the same confidential beyond the term of the contract - for as long as and insofar as such information has not become publicly known by legal means or the Customer has not consented in writing to its transfer in the individual case. The Contractor shall use this information exclusively for the purpose of performing the services.
- 15.2 The Contractor shall take appropriate measures for storage of data and for protection of its IT systems against software with damage function (viruses) and unauthorized access by third parties, in order to reasonably protect information received from the Customer, and the results generated for the same, against loss, modification, forwarding or access by unauthorized third

- parties.
- 15.3 Insofar as the Contractor is granted access to personal data in the course of providing the services, the Contractor shall comply with the statutory provisions relating to protection of personal data and data privacy and shall enable the Customer to keep itself informed that such provisions are being complied with.
- 15.4 Insofar as the Contractor performs services at the premises of the Customer or has access to the Customer's IT systems, the policy "Rules for Siemens Business Partners" shall also apply which in this case is enclosed.
- 15.5 The Contractor shall impose an obligation that corresponds to this Clause 15 upon those third parties that the Contractor involves in the provision of the services in compliance with Clause 2.1.
- 16. Assignment of Claims**  
Any assignment of any claim is only allowed with the prior written approval of the Customer.
- 17. Cancellation, Right of Termination; Consequences of Termination**
- 17.1 The Customer is entitled to cancel an order which entails the performance of training services in whole or in part until 14 days before the scheduled training date without incurring any costs. If cancellation takes place at a later date, the Contractor is entitled to a reimbursement of the costs incurred because of such cancellation, limited in any case to the order amount of the respective cancelled service.
- 17.2 The Customer is entitled to terminate the contract by giving four weeks notice to the end of a calendar month.
- 17.3 If the contract is terminated prematurely according to Clause 17.2, the Customer shall pay for the services performed to the point at which the contract was terminated and the additional costs incurred directly and verifiably as a result of such termination. The Customer shall not be liable for any additional claims of the Contractor for fulfillment or damages due to such termination.
- 17.4 The right to terminate the contract for cause remains unaffected by the foregoing. In particular, the Customer may terminate the contract for cause where the Contractor fails to comply with its obligations under the contract or if an application for insolvency proceedings has been filed against the assets of the Contractor, or if insolvency proceedings against the assets of the Contractor are commenced or are rejected due to insufficient funds. In this case the Customer may use the equipment available for the further provision of services, or services already provided by the Contractor, against reasonable remuneration.
- 18. Code of Conduct for Siemens Suppliers, Security in the Supply Chain**
- 18.1 The Contractor is obliged to comply with the laws of the applicable legal system(s). In particular, the Contractor will not engage, actively or passively, nor directly or indirectly in any form of bribery.
- 18.2 The Contractor shall provide the necessary organizational instructions and take measures, particularly with regard to the following security: premises security, packaging and transport, business partner, personnel and information - in order to guarantee the security in the supply chain according to the requirements of respective internationally recognized initiatives based on the WCO SAFE Framework of Standards (e. g. AEO, C-TPAT). The Contractor shall protect the goods and services provided to the Customer or provided to third parties designated by the Customer against unauthorized access and manipulation. The Contractor shall obligate any sub-contractors to take equivalent security measures. Moreover, the Contractor shall obligate any sub-contractors to only deploy reliable personnel and to comply with all applicable requirements of the law and the competent authorities, including those on income tax, social security, minimum wage and laws regarding the right of residence.
- 18.3 In addition to other rights and remedies the Customer may have, the Customer may terminate the contract and/or any purchase order issued thereunder in case of breach of the obligations under Clause 18 by the Contractor. However, provided that Contractor's breach of contract is capable of remedy, Customer's right to terminate is subject to the proviso that such breach has not been remedied by the Contractor within a reasonable grace period set by Customer.
- 19. Environmental Protection, Duties to Declare, Dangerous Goods**
- 19.1 Should the Contractor deliver products, substances of which are set out in the "List of Declarable Substances" ([www.bomcheck.net/suppliers/restricted-and-declarable-substances-list](http://www.bomcheck.net/suppliers/restricted-and-declarable-substances-list)) applicable at the time of the order or which are subject to statutorily-imposed substance restrictions and/ or information requirements (e. g. REACH, RoHS), Contractor shall declare such substances in the web database BOMcheck ([www.BOMcheck.net](http://www.BOMcheck.net)) no later than the date of first delivery of the products. With respect to statutorily imposed substance restrictions the foregoing shall only apply to laws which are applicable at the registered seat of Contractor or Customer or at the designated place of delivery requested by Customer.
- 19.2 Should the delivery contain goods which – according to international regulations – are classified as dangerous goods, the Contractor will inform the Customer hereof in a form agreed upon between Contractor and Customer, but in no case later than the date of order confirmation.
- 20. Export Control and Foreign Trade Data Regulations**
- 20.1 Contractor shall comply with all applicable export control, customs and foreign trade regulations ("Foreign Trade Regulations"). Contractor shall advise Customer in writing within two weeks of receipt of the order - and in case of any changes without undue delay - of any information and data required by Customer to comply with all Foreign Trade Regulations in case of export and import as well as re-export, including without limitation:
- All applicable export list numbers, including the Export Control Classification Number according to the U.S. Commerce Control List (ECCN); and
  - the statistical commodity code according to the current commodity classification for foreign trade statistics and the HS (Harmonized System) coding; and
  - the country of origin (non-preferential origin); and - upon request of the Customer - Contractor's declaration of preferential origin (in case of European suppliers) or preferential certificates (in case of non-European suppliers).
- 20.2 The Contractor shall be liable for any expenses and/or damages incurred by Customer due to any breach of the obligations according to 20.1, unless the Contractor is not responsible for such breach.
- 21. Reservation Clause**  
Customer's obligation to fulfill the agreement is subject to the proviso that the fulfillment is not prevented by any impediments arising out of national and international foreign trade and customs requirements or any embargos or other sanctions.
- 22. Mention as Reference Customer**  
Only upon Customer's prior written approval, the Contractor shall be allowed to mention the Customer as a reference customer and/or make reference to products or services which the Contractor has developed during the performance of an order for the Customer.
- 23. Place of Jurisdiction and Applicable Law**
- 23.1 German substantive law shall apply, excluding the provisions of the United Nations Law on the Sale of Goods of 11.4.1980.
- 23.2 If the Contractor is a merchant, the relevant court of jurisdiction shall be Munich.
- 24. Supplementary Provisions**  
Insofar as the provisions of these Conditions of Purchase do not regulate certain matters, relevant statutory provisions shall apply.