

## General Terms and Conditions for IT Services (IT GTC)

### 1. Scope of application and contractual partners

1.1. These General Terms and Conditions (hereinafter referred to as "**IT GTC**") apply to all services that are contractually agreed between a Salesfive company, namely the

- salesfive GmbH, Sendlinger Str. 44, 80331 Munich, Germany,
- salesfive Digital Services GmbH, Wiedner Gürtel 13, 1100 Vienna, Austria,
- Salesfive Consulting AG, Ernst-Nobs-Platz-1, 8004 Zurich, Switzerland

(hereinafter referred to as "**Salesfive**"), and the contractual partner (hereinafter referred to as "**Customer**"), unless otherwise expressly agreed between the parties in individual cases.

1.2. Salesfive only concludes corresponding contracts with natural or legal entities or with partnerships who are acting in the exercise of their commercial or independent professional activity when concluding the contract. Contracts with consumers are excluded.

### 2. Conclusion of contract

2.1. A contract is concluded by confirmation of the offer sent by Salesfive to the Customer. Text form (e.g. e-mail) is sufficient for offer and acceptance.

2.2. Unless expressly stated otherwise in the offer, Salesfive is bound by the offer for a period of ten working days from the time of receipt by the Customer.

2.3. The presentation of services by Salesfive on the Internet or in other media does not constitute a binding offer by Salesfive. This merely gives the Customer the opportunity to submit a non-binding invitation to submit an offer (invitatio ad offerendum) to Salesfive.

### 3. Services provided by Salesfive

3.1. Unless expressly agreed otherwise, Salesfive shall provide its services in accordance with the applicable generally recognized rules of technology. The objectives of Salesfive's services described in the contract are only owed as a definite success if this is expressly agreed in a service description.

3.2. The Customer is aware that Salesforce is constantly developing and modifying its products, so that Salesfive cannot influence or guarantee the scope of services offered or the continued existence of certain Salesforce products.

3.3. Salesfive will only provide its services on the Customer's business premises where necessary or jointly agreed. In all other respects, Salesfive is free to choose the place of performance. If and insofar as Salesfive performs its services on the Customer's business premises, this shall take place on working days during normal business hours in accordance with Section 5.2. In all other respects, Salesfive is free to choose the time of performance.

3.4. Salesfive does not provide advice on legal matters, including data protection, or tax-related issues. It is the Customer's responsibility to stay informed about all relevant legal, data protection and/or tax requirements and to provide Salesfive with corresponding specifications for the services to be provided.

### 4. Customer's obligations to cooperate

4.1. The Customer is obliged to provide, at their own expense, those cooperation services that are necessary and generally customary for Salesfive to provide the service in accordance with the contract. In particular, the Customer shall

- grant Salesfive the necessary access to its IT systems (including any third-party licenses required for this);
- provide Salesfive with all necessary information (e.g. documentation of interfaces);
- provide Salesfive with professionally qualified employees of the Customer who are authorized to make decisions as contact persons and ensure that these contact persons have the (working) time required for their respective tasks;
- grant Salesfive access to its business premises during normal business hours if necessary; and
- provide Salesfive with work materials, including workstations, if necessary.

- 4.2. Salesfive is under no obligation to verify the information provided by the Customer.
- 4.3. The Customer is obliged to fulfill their contractual obligations, in particular to pay the agreed remuneration and to cooperate fully in accordance with clause 4.1. If the Customer does not provide their cooperation services, does not provide them on time or does not provide them as agreed and this has an impact on the provision of services by Salesfive, any agreed dates or deadlines for the affected services by Salesfive shall be postponed by a reasonable period of time. Any additional expenses demonstrably incurred by Salesfive as a result shall be remunerated separately by the Customer in accordance with the agreed conditions, without prejudice to any further rights of Salesfive.

## 5. Dates and deadlines

- 5.1. Dates and deadlines are only binding if they are expressly stated as such in the offer.
- 5.2. Working days within the meaning of the contract are Monday to Friday with the exception of public holidays at Salesfive's registered office in Munich as well as at the Customer's location. December 24th and December 31st are also not considered working days.
- 5.3. Serious events, in particular force majeure, labor disputes, riots, armed or terrorist conflicts, epidemics or pandemics, which have unforeseeable consequences for the provision of services, shall release the parties from their performance obligations for the duration of the disruption and to the extent of its effect, even if they are in default. This does not entail automatic termination of the contract. The parties are obliged to inform each other of such disruptions and their effects and to adapt their obligations in good faith to the changed circumstances.

## 6. Change Requests

- 6.1. The Customer may request additions or other changes to the contractually agreed services ("change requests"), insofar as the changes are feasible and reasonable for Salesfive.
- 6.2. Change requests are requests for changes by the Customer relating to services outside the agreed content or scope, or additions and changes

thereto, in particular subsequent changes to service descriptions. Change requests do not include the renaming of an agreed service or, taking into account the interests of both parties, minor changes to the agreed services. Changes that have an impact on adherence to the schedule or the estimated expenditure are generally not minor.

- 6.3. Salesfive shall examine requests for changes promptly (within five working days) and shall inform the Customer of the result together with any costs and delays resulting from the change in the form of a binding offer.
- 6.4. The services provided by Salesfive in accordance with clause 6.3 are generally free of charge for the Customer. However, if a change request requires an extensive examination or if a multitude of change requests require considerable effort overall, Salesfive may demand reasonable remuneration for the examination and preparation of the change offer. Salesfive shall inform the Customer of this in advance and shall only prepare the change offer that is subject to a charge if the Customer expressly agrees to the associated costs.
- 6.5. The Customer will review Salesfive's change offer promptly (within five working days). If the Customer accepts the offer, the changes shall become part of the contract. If the Customer does not accept the offer, the contract will proceed unchanged.
- 6.6. During an ongoing change procedure, Salesfive will continue its services unchanged, unless the Customer expressly instructs Salesfive that the work should be discontinued or continued to a limited extent until a decision has been made on the change to the service.

## 7. Remuneration and billing

- 7.1. The Customer shall remunerate Salesfive's services on a time and material basis in accordance with Salesfive's hourly or daily rates contained in the contract. If daily rates have been agreed, a daily rate corresponds to a working time of 8 hours. Additional or reduced services per person day will be invoiced on a pro rata basis. If Salesfive provides services at weekends or on public holidays at the Customer's request, the remuneration for these service times shall be 1.5 times the agreed remuneration.

- 7.2. If and insofar as travel activities are required for the provision of the agreed services, reduced hourly rates of 50% (half hourly rate) apply for the travel time. If, at Salesfive's discretion, it is reasonable and feasible, preference shall be given to train travel as a means of transportation. Travel expenses shall be reimbursed in the amount of the travel costs actually incurred. This includes, in particular, travel expenses to Customer locations, accommodation costs and other expenses. No travel expenses shall be charged for the arrival and departure of employees who are employed at the Customer's site. Costs for train travel shall be reimbursed on the basis of 1st class tickets. If employees use their own car, a mileage allowance of EUR 1 per kilometer driven is to be reimbursed.
- 7.3. If the contract contains a so-called "budget indication", this represents an estimate of the total expenditure required. The parties agree that the estimate is for guidance only and cannot usually be adhered to exactly, so that exceeding the budget indication by up to 20% of the indicated total budget with reference to clause 7.1 is permissible without further requirements. Claims for additional remuneration due to a lack of cooperation on the part of the Customer (see clause 4) or due to changes in the scope of services (see clause 6) are not covered by the budget indication.
- 7.4. If the contract contains a so-called "service description", the agreed remuneration amount shall represent a cost estimate for the total expenditure required. Exceeding the cost estimate by up to 10% is permissible without further conditions. Salesfive will only be remunerated for exceeding the cost estimate if Salesfive can demonstrate that the additional expenses were not foreseeable at the time the contract was concluded when applying the due diligence of a prudent businessman and could therefore not be taken into account in the cost estimate and the Customer cannot refute this demonstration. Claims for additional remuneration due to a lack of cooperation on the part of the Customer (see clause 4) or due to changes in the scope of services (see clause 6) are not covered by the cost estimate.
- 7.5. All prices and remuneration components are exclusive of any applicable value added tax, sales tax and comparable indirect taxes at the statutory rate.
- 7.6. Salesfive shall invoice the Customer monthly at the end of each calendar month for the services rendered and shall provide the Customer with a list of the services rendered with each invoice.
- 7.7. The Customer shall check invoices, including the settlement of any agreed quotas, without delay and notify Salesfive of any objections to an invoice and any necessary corrections within 14 calendar days of receipt of the invoice. If the Customer fails to notify us, the invoice, including the use of any agreed quotas, shall be deemed approved, unless it is an error that was not recognizable to the Customer during the check. If it is an error that was not recognizable during the audit, the notification must be made within 14 days of becoming aware of it.
- 7.8. Salesfive's remuneration is due within 14 calendar days of receipt of the invoice by the Customer and must be transferred without deduction to the account specified in Salesfive's invoices.
- 7.9. If the Customer defaults on a payment, he is obliged to pay the statutory default interest of 9 percentage points above the prime rate. Default interest shall only begin to accrue after a period of 14 days from receipt of a reminder informing the Customer of the default. The right to claim further damages remains reserved.
- 7.10. If the Customer is in default of payment, Salesfive may, following a prior reminder, suspend the further provision of services until the amounts due have been paid in full or in part, provided that this is reasonable, taking into account the interests of both parties, in particular with regard to the amount of the outstanding payment and the importance of the services still to be provided for the Customer's business operations.
- 7.11. The Customer is not entitled to offset its own claims against a claim by Salesfive under this contract or to assert a right of retention due to its own claims, unless the Customer's claims (i) are undisputed, (ii) have been legally established or (iii) are based on a defect in the specific service whose remuneration Salesfive is asserting with its claim.
- 8. Rights to work results**
- 8.1. Subject to the condition precedent of payment of the agreed remuneration for the corresponding services, Salesfive grants the Customer a worldwide, non-exclusive right of use and modification,

unlimited in time, to all work results of the services provided for the Customer, which Salesfive has made available to the Customer. The right of use and modification is limited to the use and modification of the work results for the Customer's own internal business purposes and to those companies which, although legally independent, are majority-owned or have a majority shareholding in the relationship between the company and the Customer, are dependent or controlling or are group companies, mutually participating companies or parties to a company agreement. For these internal purposes of the client and its affiliated companies, the work results may also be used or processed by external service providers of the client (e.g. consultants, agencies, IT service providers). Until payment of the agreed remuneration for the respective service, Salesfive revocably tolerates the use and modification to the extent described above. The Customer's rights may only be transferred to third parties and/or sublicensed to third parties with Salesfive's prior consent.

8.2. Insofar as the work results contain pre-existing works of third parties and Salesfive has informed the Customer in advance that deviating standard terms of use of the respective third party apply in this respect, these deviating standard terms of use shall take precedence over the rights of use and modification regulated in Section 8.1.

8.3. Insofar as Salesfive's services include programming services, Salesfive shall provide its work results in object code and not in source code.

## 9. Personnel and subcontractors

9.1. Salesfive is free to choose the persons to be deployed for the provision of services. Salesfive shall ensure that the persons deployed are sufficiently qualified to provide the service. If and insofar as Salesfive has named certain persons to the Customer whom Salesfive intends to deploy to provide the service, this corresponds to the planning status at the time of naming. The Customer is not entitled to the deployment of the named persons.

9.2. Salesfive is entitled, with the prior consent of the Customer, to use subcontractors for the provision of services. The Customer may only refuse their consent for good cause. Companies with which Salesfive is in a relationship where they have a majority holding or a majority interest, are dependent and controlling, are group companies or mutually

involved companies or contractual parts of a company agreement, may also be used as subcontractors without prior consent.

9.3. The Customer is not authorized to issue instructions to the persons employed by Salesfive for the provision of services. This applies in particular if persons employed by Salesfive provide services on the Customer's business premises. For its part, Salesfive is not authorized to issue instructions to the Customer's employees.

## 10. Data protection

Insofar as Salesfive processes personal data originating from the sphere of the Customer's data as part of the provision of services, the parties shall conclude a separate order processing agreement.

## 11. Confirmation of service provision

11.1. The parties shall carry out the following procedure to confirm the provision of services for all services provided by Salesfive.

11.2. After the service has been provided by Salesfive and, if applicable, made available via a ticket system to be determined at Salesfive's discretion, the Customer shall check within ten working days whether the service corresponds to the agreement. Following a successful check, the Customer must immediately confirm the proper provision of the service. If the Customer identifies significant defects in the service, the Customer shall send Salesfive a comprehensible description of these defects within five working days. Confirmation may not be refused due to insignificant defects.

11.3. In the event of significant defects, Salesfive shall rectify these defects within a reasonable time period and make the adjusted service available to the Customer again for confirmation. The above provisions apply accordingly in this respect. The Customer shall set Salesfive a reasonable period of grace twice to rectify the defects before asserting any further rights or claims to which it is entitled due to the defects.

11.4. Services are deemed to have been confirmed if the Customer has not asserted at least one defect to Salesfive within fifteen working days of the service being provided. This does not apply to hidden defects that could not have been detected by the Customer during a proper functional test.

## 12. Claims in the event of defects

- 12.1. In the event of defects, the Customer is entitled to the statutory claims for defects, unless otherwise regulated below.
- 12.2. The Customer is obliged to notify Salesfive immediately of any defects that occur as well as their effects and exact circumstances (e.g. examples of defects, data). The Customer shall support Salesfive at their own expense to a reasonable extent in the rectification of defects, in particular by granting Salesfive access to all information required for the rectification of defects.
- 12.3. If the Customer asserts claims due to a defective performance by Salesfive, the result of which the Customer has changed themselves (or had changed by a third party), the Customer's claims for defects shall only exist if they can prove that (i) the change is not the cause of the defect and (ii) the rectification of the defect is not or only insignificantly impeded by the change.
- 12.4. Salesfive is entitled to circumvent a defect by means of a provisional workaround solution if the cause of the defect itself can only be remedied with disproportionate effort and the usability of the service owed is not significantly restricted as a result.
- 12.5. The limitation period for claims for defects is 12 months from the start of the statutory limitation period. This shall not apply if Salesfive has fraudulently concealed the defect or has caused it intentionally or through gross negligence.

## 13. Confidentiality

- 13.1. Unless the parties have concluded a separate confidentiality agreement, the following shall apply: Both parties are likely to disclose or have already disclosed confidential information in the course of their contractual relationship. Confidential information is all information expressly designated as "confidential" as well as information whose confidentiality results from its content or the circumstances of its disclosure. Confidential information also includes the commercial agreements between the parties and the personal data transmitted hereunder. If there is any doubt regarding the confidentiality of information, the party that has received this information shall immediately contact the other party and request clarification, in any

case before this information is passed on to third parties.

- 13.2. Information shall not be deemed confidential information if the party that received it can prove that (a) it was aware of it before disclosure by the other party; (b) it developed the information independently without recourse to or use of information from the other party; (c) it lawfully obtained the information from a third party who, to its knowledge, was not under a duty of confidentiality to the other party; (d) it became known to it or to the public without breach of these provisions or of any other provisions protecting the other party's business secrets; or (e) it is required to be disclosed by law or by order of a public authority or court. In the latter case, the party that has received the information must inform the other party immediately before disclosing it to third parties.
- 13.3. Unless it is necessary for the performance of the contract, both parties are obliged not to use the confidential information of the other party for their own purposes, to treat it as strictly confidential and to protect it with at least the same care as they take to protect their own confidential information.
- 13.4. The mutual confidentiality obligations under this section shall apply for the entire term of the agreement and for a further two years after its termination.

## 14. Reference citation

The Customer allows Salesfive to publicly refer to the basic object of the activity using the Customer logo as a reference.

## 15. Term and termination of contract

- 15.1. Unless otherwise agreed, a contract without a service description runs for an indefinite period and can be terminated by either party with three months' notice to the end of the calendar month. Notwithstanding this, the parties may exclude the right to early ordinary termination for certain services, so that these services must be provided in full in any case.
- 15.2. The right to extraordinary termination for good cause remains unaffected.
- 15.3. Salesfive's obligation to provide further services shall end when the termination takes effect, even

if the objectives pursued with the agreed services have not yet been achieved.

- 15.4. Contracts for services that are regulated in a service description may be terminated by the Customer at any time up to the time of their complete provision in addition to clause 15.1. In this case, Salesfive is entitled to demand the agreed remuneration, but must take into account the expenses that Salesfive saves as a result of the termination of the contract or acquires or maliciously refrains from acquiring through other use of the work in question. It is rebuttably presumed for both parties that Salesfive is entitled to 15% of the agreed remuneration attributable to the part of the service not yet rendered from the service description.

#### **16. Limitation of liability**

- 16.1. Salesfive is liable without limitation for intent and gross negligence as well as in accordance with the Product Liability Act. Salesfive is liable for slight negligence in the event of damage to life, limb and health of persons.
- 16.2. In addition, the following limited liability applies: In the case of slight negligence, Salesfive is only liable in the event of a breach of a material contractual obligation, the fulfillment of which is essential for the proper execution of the contract and on the observance of which the Customer may regularly rely (cardinal obligation). Liability for slight negligence is limited to the amount of damages foreseeable at the time of conclusion of the contract, the occurrence of which must typically be expected. This limitation of liability also applies in favor of Salesfive's vicarious agents. Salesfive shall only be liable for the loss of or damage to data or programs to the extent that their loss or damage could not have been avoided even if the Customer had taken reasonable precautions (in particular the regular creation of backup copies).
- 16.3. Except in cases where a guarantee has been assumed, in the event of damage caused intentionally or by gross negligence or in the event of personal injury, the above limitations of liability shall apply to all claims for damages arising from or in connection with the contract, irrespective of the legal grounds (including claims in tort).

#### **17. Non-solicitation clause**

- 17.1. The Customer is prohibited from actively enticing away employees of Salesfive who are deployed in the provision of the service during the term of the contract and for a further year thereafter as employees or freelancers or having them actively enticed away by third parties.

- 17.2. For each case of culpable breach of this obligation, the Customer shall be obliged to pay a contractual penalty, the amount of which shall be determined by Salesfive at its reasonable discretion and which, in the event of a dispute, may be reviewed by the competent court for its appropriateness.

#### **18. Dispute resolution, applicable law and place of jurisdiction**

- 18.1. The parties agree that in the event of any disputes arising from or in connection with the contract which they are unable to settle between themselves, they shall consult an arbitration body to be selected by agreement between the parties in order to settle the dispute in whole or in part, provisionally or finally, in accordance with its arbitration rules in the version applicable at the time the arbitration proceedings are initiated. The statute of limitations for all claims arising from the matter subject to arbitration is suspended from the request for arbitration until the end of the arbitration proceedings until one of the two parties refuses to continue the arbitration proceedings. The limitation period shall commence at the earliest three months after the end of the suspension. The parties hereby clarify that the prior initiation of arbitration proceedings is not a prerequisite for litigation, irrespective of whether the proceedings are on the merits or for interim relief.
- 18.2. Unless otherwise agreed, the national law of the country in which the Salesfive company concluding the contract has its registered office shall apply exclusively. The application of the UN Convention on Contracts for the International Sale of Goods is excluded.
- 18.3. The exclusive place of jurisdiction for all disputes arising from or in connection with the contract shall be the registered office of the Salesfive company concluding the contract. This does not apply to the dunning procedure and other mandatory

places of jurisdiction, which cannot be deviated from by agreement between the parties.

#### **19. Miscellaneous**

- 19.1. Salesfive may also work for other Customers; the Customer's consent is not required. This also applies to work for direct competitors of the Customer.
- 19.2. Insofar as the applicable law pursuant to section 18.2 provides for certain obligations of Salesfive for contracts in electronic business transactions (e.g. correction options for input errors before orders are placed, pre-contractual information obligations, confirmations of receipt for orders, etc.), these are hereby waived to the extent permitted by law.
- 19.3. Unless expressly agreed otherwise, the contract shall be concluded in digital form, generally with a simple electronic signature at the discretion of Salesfive.
- 19.4. All other agreements, notifications and declarations within the scope of or in connection with the contract must be made at least in text form (e.g. e-mail is sufficient). This also applies to any agreement to waive this formal requirement.