General terms and conditions

Dirk Matthias Rudolf

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§ 1 Scope

1. These general terms and conditions (Terms) apply to all contracts for software development, technical consulting and technical project leadership between Dirk Matthias Rudolf (the Contractor) and his clients (the Client). They apply only to entrepreneurs (§ 14 of the German Civil Code, BGB), legal entities under public law and special funds under public law.
2. Conflicting or deviating terms of the Client do not become part of the contract, even if the Contractor does not expressly object to them or performs with knowledge of such terms.
3. Order of precedence: individual agreements take precedence over the individual order, and the individual order (offer and acceptance) takes precedence over these Terms. The version of the Terms named in the offer applies.
4. Declarations and notices under these Terms require text form (§ 126b BGB) unless otherwise provided; email suffices.

§ 2 Conclusion of contract

1. Offers of the Contractor are binding for 14 days from the offer date unless the offer provides otherwise.
2. An individual order is concluded when the Client accepts the offer in text form within the binding period or the Contractor confirms a purchase order of the Client in text form.
3. The individual order describes the subject matter, the remuneration and the period or milestones, and states whether the services are provided under a service contract (Dienstvertrag: activity without a guaranteed result) or a contract for work (Werkvertrag: an owed result subject to acceptance). If nothing is stated, the individual order is a service contract.
4. Every individual order is limited in time or tied to a specific result. No continuing obligation without a limit in time or subject matter is created.

§ 3 Independent performance

1. The Contractor provides the services as an independent entrepreneur. He determines the place, time and manner of performance himself and is not subject to the Client's right to issue instructions. Technical coordination and specifications regarding the subject matter serve project coordination and do not establish a right to issue instructions regarding the place, time or manner of performance.
2. The Contractor uses his own equipment, in particular his own hardware, his own development environment and his own email address. He uses the Client's systems only where security requirements, access control or integration into the Client's system landscape require it.

3. Work packages, scope and deadlines are agreed in the individual order. The Contractor is free to decline further individual orders or extensions.
4. The Contractor attends the Client's meetings only in relation to the project and by agreement. There is no obligation to be present, to be reachable or to record working time. Activity reports serve solely as the basis for invoicing.
5. The Contractor may engage equally qualified third parties for performance or have them act as substitutes. He notifies the Client in advance in text form; the Client may object only for good cause, in particular for legitimate security or confidentiality concerns. The Contractor remains responsible for the services and binds the third parties to confidentiality and data protection to the extent of these Terms.
6. The Contractor is free to work for other clients as long as no confidentiality obligations are breached.
7. No employment relationship is established. The Contractor bears his own taxes and social security contributions and acts towards third parties as an external service provider.

§ 4 Cooperation of the Client

1. The Client provides, in good time and free of charge, all information, access, interfaces, test data and documents required for the services, names a contact person with decision-making authority and takes the necessary decisions within a reasonable period.
2. If the services are delayed by missing or late cooperation, agreed deadlines are postponed accordingly. Additional effort incurred by the Contractor as a result is remunerated at the rates agreed in the individual order; § 642 BGB remains unaffected.
3. The Client warrants that content, data and software it provides are free of third-party rights that would prevent their contractual use, and indemnifies the Contractor against third-party claims to that extent.

§ 5 Changes

1. If the Client wishes to change or extend the agreed scope, it notifies the Contractor in text form. The Contractor reviews the change request and states whether and on what conditions the change can be implemented, in particular its effect on remuneration and deadlines.
2. The change becomes part of the contract only once agreed in text form. Until then the individual order continues unchanged, unless the parties agree to pause it.

§ 6 Acceptance (contract for work)

1. For services under a contract for work, the acceptance criteria are set out in the individual order. After notice of completion, the Client reviews the work within 14 days and declares acceptance or notifies in text form the defects that prevent acceptance.
2. The work is deemed accepted if the Client does not refuse acceptance within the review period by naming at least one defect (§ 640 (2) BGB). The Contractor points out this consequence with the notice of completion.

3. Minor defects do not entitle the Client to refuse acceptance; they are remedied under the warranty.
4. Self-contained partial deliveries or milestones may be accepted separately. If the Client puts a delivery into productive use, this counts as acceptance.

§ 7 Remuneration and payment

1. Remuneration is agreed in the individual order as a daily rate, an hourly rate or a fixed price. All amounts are exclusive of statutory VAT.
2. Services on a time basis are invoiced monthly in arrears on the basis of the activity report. Fixed prices are invoiced according to the payment schedule in the individual order, otherwise on acceptance. No fee is owed for services not rendered unless these Terms or the law provide otherwise.
3. Travel and ancillary costs are reimbursed only where agreed in the individual order.
4. Invoices are payable within 14 days of receipt without deduction. Invoices are sent electronically; the parties agree on the e-invoice format.
5. In case of late payment, statutory default interest (§ 288 (2) BGB) and the lump sum under § 288 (5) BGB apply. The Contractor may withhold further services until due invoices are settled.
6. The Client may set off, or assert a right of retention, only with undisputed or legally established claims.

§ 8 Rights of use

1. Upon full payment of the respective remuneration, the Client receives the exclusive, transferable and sublicensable right, unlimited in time, territory and content, to use, reproduce, modify and distribute the work results described in the individual order and created for it, including source code and documentation. Until then the Client receives a non-exclusive right of use for testing, acceptance and integration.
2. For pre-existing works of the Contractor (libraries, tools, templates and other components not specific to the order) embedded in work results, the Client receives a non-exclusive, perpetual right of use to the extent of the embedding. The Contractor remains free to use these works.
3. Open-source components are used under their respective licences; the Contractor discloses the components used. Components under licences with copyleft effect are used only after coordination with the Client.
4. General know-how, methods, procedures and tools, as well as experience gained during performance, remain free for the Contractor's use unless a confidentiality obligation prevents this.
5. Source code is handed over via a repository of the Client or by an agreed route. The Contractor waives attribution within the software; attribution in the source code is permitted.

§ 9 AI tools

1. The Contractor may use tools with artificial intelligence, in particular code assistants, in performing the services.
2. Confidential information, personal data and unpublished source code of the Client are transmitted only to services that do not use these inputs to train their models and with which a data processing agreement (Art. 28 GDPR) or a comparable confidentiality commitment is in place, unless the individual order provides otherwise.
3. Results produced with AI tools are reviewed by the Contractor. Responsibility for the work results remains with the Contractor.

§ 10 Warranty

1. For services under a contract for work, the Contractor warrants that the work results have the agreed quality at acceptance. Defects are remedied, at the Contractor's choice, by repair or replacement. If remedy fails after two attempts, the Client may reduce the remuneration or withdraw from the individual order.
2. Claims for defects become time-barred one year after acceptance. This does not apply to claims based on intent, gross negligence, fraudulent concealment of a defect or injury to life, body or health, nor to claims under a guarantee of quality; the statutory periods apply to these.
3. No warranty is given for defects caused by changes to the work results by the Client or third parties, by material provided by the Client, by a deviating operating environment or by missing cooperation.
4. For services under a service contract, the Contractor owes the careful performance of the activity according to the state of the art, not a specific result. Breaches of duty are governed by the statutory provisions (§§ 280 et seq. BGB) and by § 11.

§ 11 Liability

1. The Contractor is liable without limitation for intent and gross negligence, for damage from injury to life, body or health, for fraudulent concealment of a defect, under a guarantee he has assumed, and under the German Product Liability Act.
2. For slightly negligent breach of material contractual obligations, the Contractor's liability is limited to the damage typical for the contract and foreseeable at its conclusion. Material contractual obligations are those whose fulfilment makes the proper performance of the contract possible in the first place and on whose observance the Client may regularly rely.
3. Liability under paragraph 2 is limited per claim to the sum insured under the Contractor's professional liability insurance. It currently amounts to EUR 2,000,000 for financial loss and EUR 5,000,000 for personal injury and property damage. The insurer is named in the legal notice at rudolf.io.
4. Otherwise, liability for slight negligence is excluded.
5. For loss of data, the Contractor is liable only up to the effort that would be required for recovery if the Client had performed proper and regular backups.

6. The above provisions also apply in favour of the Contractor's agents and subcontractors.

§ 12 Confidentiality

1. The parties treat all information obtained in connection with the contract that is marked confidential or is recognisably confidential from the circumstances as confidential, and use it only to perform the contract.
2. Excluded is information that is publicly known or becomes public without breach of this obligation, was already known to the receiving party, was developed by it independently or lawfully obtained from third parties, or must be disclosed by law or official order.
3. The obligation continues for three years after the end of the respective individual order. General know-how and experience under § 8 (4) are not covered.

§ 13 Data protection

1. If the Contractor processes personal data on behalf of the Client, the parties conclude a data processing agreement under Art. 28 GDPR before processing begins.
2. The Client remains responsible for the lawfulness of the collection and processing of the data it provides.

§ 14 References

1. The Contractor may name the Client by name and industry, together with the subject of the order in general terms, as a reference, in particular on his website and in professional profiles. Naming details, logos or work results requires separate consent.
2. The Client may object to being named at any time in text form. The Contractor then removes the reference within 14 days.

§ 15 Term and termination

1. Service contracts may be terminated by either party in text form with 14 days' notice to the end of a month, unless the individual order provides a different term or notice period. Services rendered up to termination are invoiced.
2. For contracts for work, the Client's right of termination under § 648 BGB remains unaffected. Services rendered up to termination are remunerated. For the part not yet rendered, the Contractor may claim a lump sum of 5 % of the remuneration attributable to it; the Client may prove a lower claim and the Contractor a higher one.
3. The right to terminate for good cause remains unaffected.
4. On termination, the Contractor returns the Client's access credentials and documents and hands over the work results created up to that point. The rights of use in them are governed by § 8. The Client revokes the access granted to the Contractor.

§ 16 Force majeure

1. Events beyond the control of the affected party that were not foreseeable at the conclusion of the contract, such as natural disasters, epidemics, war, official orders, large-scale infrastructure failures or an illness of the Contractor through no fault of his own where substitution under § 3 (5) is not possible, release the affected party from its obligations for the duration of the event. Agreed deadlines are extended accordingly.
2. The affected party informs the other party without delay. If the event lasts longer than four weeks, either party may terminate the affected individual order in text form; services rendered are invoiced.

§ 17 Final provisions

1. The law of the Federal Republic of Germany applies, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).
2. If the Client has no general place of jurisdiction in Germany, Berlin is the exclusive place of jurisdiction for all disputes arising from or in connection with the contract. Otherwise the statutory places of jurisdiction apply.
3. Amendments and additions to the individual order and to these Terms should be made in text form.
4. The German version of these Terms governs. The English version is provided for information.
5. Should individual provisions be invalid, the validity of the remaining provisions remains unaffected.