

# General Terms and Conditions of Purchase Subcontracting

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## **Preliminary Remarks**

The customer provides project work in the automotive and automotive systems sector in Germany and in Europe. It develops projects from concept to detail and from idea to series production.

Quality is the focus of all divisions of the customer. The philosophy of quality is based on the company's own demand and self-image as an enterprise with the certified standards, which complies with the current international standards ISO 9001, IEC 27001, CSR 26001 as well as TISAX of the brand manufacturers. The customer requires this also from its contractors.

**The possibility of concluding an employment contract has deliberately not been used in accordance with the principle of contractual freedom. There is no intention to circumvent protective regulations under labour and employment law. Rather, the contractor claims full freedom of decision and entrepreneurial independence in the provision of his services to third parties. No personal, economic and social dependency beyond the scope of this agreement is established.**

## **1 Subject-matter**

The supplier provides one or several services focused on advising and supporting the customer in the context of projects of EVO GmbH in accordance with the order and related specifications.

## **2 Scope of Services**

(1) The contractor is engaged to provide project services in accordance with one or several specification sheets pursuant to section 1 of these general terms and conditions.

(2) The contractor shall provide the contractual services with the greatest possible care and diligence according to the respective state of the art, latest rules and knowledge. In doing so, he shall – as far as necessary and reasonable – take into account general process descriptions and industry standards as well as specific provisions, methods and application practices of the customer, if applicable.

(3) The contractor is obliged to provide the services owed under the contract. In the performance of his activities, he shall not be subject to any instructions as to the manner of provision of his services or where and when he provides them. He shall, however, determine the work days and organise them in such a way that optimum efficiency is achieved in his work and in the realisation of the subject-matter of the contract. The provision of services by the contractor shall merely take place in consultation and coordination with the customer.

(4) The contractor may engage third parties as subcontractors to provide the services. Before engaging a third party as a subcontractor, the contractor shall, however, notify the customer thereof in writing.

(5) The contractor is, in principle, not authorised to act as a representative of the customer vis-à-vis third parties. He is not entitled to conduct negotiations independently or to make declarations of intent with effect for or against the customer. He is not authorised to represent the company in legal transactions or to issue instructions to employees. Any exceptions to this shall require the prior written consent of the customer in each case.

## **3 Customer's Duties to Cooperate**

(1) The customer shall support the contractor in the provision of the services in accordance with the contract by reasonable acts of cooperation, to the extent necessary. In particular, the customer shall provide the contractor with the necessary information and data and allow the contractor's employees/subcontractors access to its business premises during its business hours to the extent necessary. The contractor shall not be provided with any office space, work equipment, official clothing or business cards by the customer; should a spatial integration be necessary, the contractor may rent rooms from the customer in accordance with a separate contractual arrangement.

(2) The main contact person for the contractor at the customer will be named in the order.

#### **4 Duties of Loyalty**

(1) The contractor also works for other customers and is free to do so.

(2) The contractor, however, undertakes to only work for an enterprise that directly competes with the customer or its affiliated companies within the meaning of Section 15 of the German Stock Corporation Act (*Aktiengesetz*, AktG) with the customer's written consent during the term of the service contract. The customer may refuse its consent for appropriate reasons and will apply equitable discretion in doing so. Enterprises whose products or services can be regarded as interchangeable with the customer's products or services due to their characteristics, price level and intended use are direct competitors. The same shall apply to working for a customer of the customer in whose projects the contractor is or has been active and for other enterprises that are working on the same project at the same time.

(3) The contractor will notify his contact person of the commencement of work if there are doubts whether this work is in conformity with the activities for the customer or whether it may result in a conflict of interest, and will commence such work only after he has obtained the customer's prior consent.

#### **5 Remuneration, Reimbursement of Expenses**

(1) The contractor will be paid a fee plus statutory value-added tax for his work after completion of the scope of services resulting from the respective order.

(2) The remuneration shall cover all claims for remuneration of the contractor in connection with the provision of the contractual services, in particular the provision of the work and the granting of the rights pursuant to section 7.

(3) The contractor is entitled to reimbursement of his necessary expenses incurred in the performance of his work, as invoiced and proven in accordance with paragraph (4). Travel and accommodation costs as well as other expenses not directly related to the work shall only be reimbursed by the customer if the customer has expressly approved them in the order.

(4) The contractor shall be obliged to submit an invoice stating the activities performed and expenses incurred with reference to the order. The corresponding evidence shall be attached to the statement. Activities and expenses which have not been proven shall not be reimbursed by the customer.

(5) Remuneration and reimbursement of expenses shall be due for payment in each case four weeks after receipt of a proper and auditable invoice attached to the statement referred to in paragraph (4).

#### **6 Term and Termination**

(1) The contract commences upon signing of the individual order and is entered into for an indefinite period of time, at the longest, however, until the termination or complete fulfilment of the commissioned individual order.

(2) Each party shall be entitled to terminate such individual order upon eight weeks' notice at the end of the relevant calendar month. The right of both parties to terminate the contract without notice shall remain unaffected.

(3) If the contractual relationship is terminated prematurely for reasons for which the contractor is culpably responsible, the contractor shall bear the additional costs of the necessary completion of the order. The customer shall be entitled to terminate the contract without notice for good cause (*aus wichtigem Grund*) in particular in those cases in which the project under the individual order is discontinued. This shall also apply in the event of force majeure (e.g. strike, closure, etc.). In this case, however, the contractor is not obliged to bear the necessary costs for the completion of the order.

(4) Should the contractor be in arrears with the fulfilment of the obligations with a grace period of at least one week to be set by the customer in writing, the customer shall be entitled to withdraw the order from the contractor without setting any further grace period.

(5) Each notice of termination must be made in writing stating the project number specified in the individual order and sent by registered letter.

(6) After termination of the contract, the contractor shall return or delete without delay and without being asked to do so any working papers and business documents and other working materials provided to him. The assertion of a right of retention shall be excluded. Electronic data shall be deleted completely and permanently. This does not apply to documents and data for which there is a longer legal obligation to retain them, but only until the end of the respective retention period. The contractor shall confirm the deletion to the customer in writing at the customer's request.

## **7 Granting of Rights**

(1) The contractor acknowledges that any and all rights to all work results (including research and development work) as well as all patent and utility model rights, design rights, copyrights, trademark rights, database rights, rights to know-how as well as any other industrial property rights (hereinafter the "property rights") existing in the work results, arising from their use and/or embodied in them, including all conceivable legal positions in ideas, drafts and designs, shall pass to the customer in full and without restriction at the time they arise. The contractor hereby transfers any and all rights to the results of the works and any and all property rights to the customer. The customer hereby accepts this transfer.

(2) If the transfer of rights provided for in paragraph (1) cannot be effectively brought about in accordance with mandatory applicable law, in particular with regard to copyright, the contractor hereby grants the customer a comprehensive, exclusive right to use the results of the works or property rights, which rights shall be unlimited in terms of space and time and apply without restriction to all types of use. Insofar as this is possible under applicable law, the contractor hereby unconditionally and irrevocably waives all moral rights existing in respect of already created or future work results, including the right to be named and the prohibition of distortion.

(3) The transfer or granting of rights includes in particular the right to exploit the work results for one's own purposes or those of third parties in any way worldwide and for an unlimited period of time, including exploitation in and on products, whether one's own products or those for third parties, in all types of use. The right to reproduce and/or publish the work results is also included. The rights also include editing rights, i.e. the right to further edit the work results or to have them further edited by third parties.

(4) The contractor undertakes to promptly provide all documents and assistance which are necessary at the customer's discretion, in order to obtain the rights to the work results as well as the other property rights existing in respect of or arising from the work results and/or to register such property rights upon the customer's request.

(5) The aforementioned transfer and granting of rights of use are fully compensated for with the agreed remuneration paid to the contractor.

(6) The contractor assures that the granting and transfer of rights in no way contradicts any existing obligation on his part. He guarantees that his freelance and permanent employees or other third parties engaged by him – regardless of whether in his own name or in the name of third parties – have transferred or will transfer the rights of use required for the realisation of the respective projects to him or the customer in accordance with the above provisions or have granted or will grant them to him or directly to the customer to the extent that these rights are to be transferred or granted by the contractor to the customer. This also includes, for example, the waiver of the right to name the author or other moral rights as well as the unrestricted use of the inventions – eligible for patent or design protection –

(7) created by his employees. The contractor shall be obliged to hand over the corresponding agreements upon request.

(8) The contractor guarantees that the use of the services provided by him and/or on his behalf does not violate the rights of third parties or depend on the rights of third parties. The contractor shall indemnify the customer against any third-party claims asserted against the customer due to the contractual use of the services provided by the contractor upon first request and shall compensate the customer for any damage incurred by the customer due to the third-party claim, including any court costs and lawyers' fees incurred for the legal defence. In all other respects, the statutory provisions shall apply.

## **8 Liability**

The contractor shall be liable in accordance with the statutory provisions.

## **9 Data Privacy and Data Security**

(1) The contractor undertakes not to process personal data without authorisation. Personal data may therefore only be processed if consent has been given or a statutory regulation permits or prescribes the processing. The principles of the General Data Protection Regulation ("GDPR") for the processing of personal data must be observed; they are set out in Article 5(1) GDPR and essentially include the following obligations:

Personal data shall be

- (a) processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency');
- (b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes ('purpose limitation');
- (c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');
- (d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy');
- (e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed ('storage limitation');
- (f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality').

Personal data may only be processed in accordance with the customer's instructions.

Violations of this obligation may be punished by a fine and/or imprisonment. Any violation may at the same time constitute a breach of contractual obligations, in particular the obligations to maintain confidentiality pursuant to section 10. Claims for damages (under civil law) may also arise from culpable breaches of this obligation. The obligation to maintain confidentiality resulting from section 10 or separate agreements shall not be affected by this declaration. The obligation shall continue to apply after termination of the work.

(2) Any obligation of persons to maintain data secrecy required under data protection law shall be made prior to the first commencement of work. The record(s) of the formal obligation to maintain data secrecy shall be presented upon the customer's request. The contractor may only deploy trustworthy employees known to him by name, for whom he assumes liability. The customer reserves the right to demand a personal interview with the respective employee in certain critical areas of work before the commencement of work.

(3) Pursuant to Article 32 GDPR in conjunction with Section 64 of the Federal Data Protection Act (*Bundesdatenschutzgesetz, BDSG*), the contractor shall take the necessary technical and organisational measures, taking into account the state of the art, the implementation costs, the nature, scope, circumstances and purposes of the processing as well as the probability and severity of the risks to the legal interests of the data subjects associated with the processing, in order to ensure a level of security appropriate to the risk when processing personal data, in particular with regard to the processing of special categories of personal data. In doing so, the contractor shall take into account the relevant technical guidelines and recommendations of the Federal Office for Information Security. The contractor shall, in particular, protect the systems under his access against unauthorised disclosure, storage, modification and other unauthorised access or attacks of any kind by employees or other third parties.

(4) The customer is entitled to check compliance with the data security requirements at any time after prior written notice of at least five working days. If the customer has a concrete suspicion of a breach of data security requirements, no prior notice shall be required. As part of the check, the contractor shall grant the customer access to his business facilities relevant for the check, in particular the IT facilities, during his normal business hours.

## **10 Obligation to Maintain Confidentiality**

(1) The contracting parties undertake to treat confidentially all information made accessible to them within the framework of the contract as well as any information obtained in the course of cooperation that concerns matters of the other party which is marked as confidential; which is designated as confidential in the case of oral transmission; or which is recognisable as confidential from the viewpoint of an objective observer; as well as business and trade secrets, including but not limited to information, data, ideas, concepts and business models. The contracting parties are prohibited from exploiting, making accessible to third parties or otherwise using confidential information for a purpose other than that intended for the contractual fulfilment of tasks without the written consent of the other contracting party.

(2) Both parties undertake to impose the duty of confidentiality on all employees and/or third parties (freelancers, etc.) who have access to the aforementioned business transactions.

(3) The obligation to maintain confidentiality does not apply to information that

- (a) was already known to the other party when the contract was concluded;
- (b) was already published at the time of disclosure by the disclosing party without this resulting from a breach of confidentiality by the respective other party;
- (c) the other party has expressly released in writing for disclosure;
- (d) the other party has lawfully obtained from other sources without any restriction on confidentiality, provided that the disclosure and use of such confidential information do not violate any contractual agreements, statutory provisions or official orders;
- (e) the respective party has developed himself without access to the confidential information of the customer's customers;
- (f) must be disclosed due to statutory disclosure, information and/or publication obligations or official orders. To the extent permissible, the party obliged to do so shall inform the other party of this as early as possible and support the other party as best as he can in



taking action against the obligation to disclose.

(4) The obligation to maintain confidentiality shall continue for a period of five years after termination of the contract.

(5) The documents made available by the contracting parties shall be handed over to the other contracting party during the execution of an order upon request and handed over or destroyed by the contracting party without undue delay after the termination of the respective order without request.

(6) The contracting party agrees and is informed that all order data concerning him are stored as part of the electronic data processing of the other contracting party for the purpose of fulfilling the respective contract.

The customer shall be entitled to demand payment of a contractual penalty of up to €50,000 from the contractor for each individual breach by the contractor or an authorised person of the obligations under this section 10. The principles of continuation of the offence are excluded. The payment of the contractual penalty shall not exclude the assertion of a claim for injunctive relief or damages in excess thereof upon corresponding proof. The contractual penalty shall be offset against possible damages.

## **11 Information Security**

The information of the commissioned project is generally considered to be information with a very high protection level by virtue of the order.

The information security requirements of the end customers and EVO GmbH must be complied with.

The exchange of data must be encrypted for data and images.

## **12 Corporate Compliance Regulation**

The contractor is fully familiar with the customer's Corporate Compliance Regulation, in particular the Corporate Compliance Guideline, as amended from time to time, and will fully comply with the regulations therein.

## **13 Final Provisions**

(1) Should individual provisions of the contract be or become invalid, the validity of the remaining provisions of the contract shall not be affected thereby. The invalid provision shall be replaced by a provision that comes as close as legally possible to the intention of the parties. This shall apply accordingly in case of any legal gap herein.

(2) The contractor may not assign his rights and obligations under the contract either in whole or individually. The customer reserves the right to assign rights from the contract to affiliated companies. Apart from that, the customer may only assign rights from the contract to third parties with the contractor's consent.

(3) The laws of the Federal Republic of Germany apply. Exclusive place of jurisdiction shall be Munich, Germany, if the contractor is a businessperson. The customer is, however, entitled to sue the contractor at the contractor's general place of jurisdiction or at the place of jurisdiction of any branch office.

(4) Amendments, supplements and ancillary agreements to the contract must be made in writing to be effective and expressly marked as such. This shall also apply to the waiver of the written form requirement or amendments to it.