

## 1. Application domain

1.1 These Standard Terms and Conditions for Service Contract ("STC Services") form an integral part of the Service Contract ("Contract") concerning Services (incl. IT-Services), especially in relation to consulting, planning, assistance and training ("Services").

1.2 If, in any request for proposal, Group Supplier refers to the STC Services, these shall be deemed to be agreed and accepted upon submission of a written bid.

## 2. Realization

2.1 Supplier shall carry out and comply with Supplier's contractual duties with all due care and competence, and in so doing shall carry out all instructions resp. specifications issued by Group Company in relation to the Service and shall abide by the current state of technology, and the legal requirements.

2.2 Supplier shall submit reports to Group Company on a regular basis concerning the Services. The Group Company has the right to verify the status of the performance of the Contract and to demand information in that regard.

2.3 Supplier shall report promptly to Group Company any circumstance or factor that could jeopardize provision of the Services.

## 3. Group Company's obligation to cooperate

3.1 Group Company shall communicate to Supplier, in good time, any requirements or other data that are relevant for performance of the Contract. Insofar as Supplier considers as necessary, any further provisions concerning Group Company's duty to cooperate shall be included in the Contract.

3.2 Group Company shall provide any documentation and/or office space that may be necessary for performance of the Contract.

3.3 Group Company shall grant Supplier access to the premises of Group Company, insofar as is necessary for performance of the Contract.

## 4. Right to issue instructions

Group Company shall be entitled, at any time, to issue instructions related to the contractual Services.

## 5. Deployment of staff

5.1 For rendering the Services, Supplier shall deploy only carefully selected and appropriately trained staff who should be replaced in case of insufficient expertise or otherwise endanger performance of the Contract.

5.2 Each party shall provide the other party with the names and positions/roles of essential supervisory and/or managerial personnel. Any replacement of such personnel shall be subject to prior written authorization of Group Company.

5.3 Supplier shall only deploy staff with the authorizations required for rendering of the Services.

## 6. Engagement of third parties

6.1 Any engagement of third parties (subcontractors) shall be subject to prior approval by Group Company and shall be without prejudice to Supplier's obligation to assume full responsibility for

supplying Group Company with the Services in a contractually compliant manner.

6.2 Group Company shall be entitled to obligate Supplier to engage third parties for contractual Services. In such a case, Group Company shall be liable for the consequences of any faulty performance by any such third party, insofar as Supplier proves that said third party acted properly and complied with the relevant instructions and requirements.

## 7. Instruction

Supplier shall assume responsibility for and the cost of initial training of Group Company personnel, whereby the scope of such training shall be defined in the Contract.

## 8. Change requests

8.1 Group Company shall be entitled to submit written Change Requests concerning the Services at any time. Within ten days following receipt of any such Change Request, Supplier shall submit to Group Company a written notification indicating whether the requested change is realizable; and any effect such change may have on any future Services, as well as the price and delivery dates thereof. Within ten days following receipt of said notification, Group Company shall determine whether or not the Change in question will be implemented. Unless otherwise agreed, Supplier shall continue carrying out its Services according to plan during the period in which any Change Request is being evaluated.

8.2 Supplier shall be prohibited from rejecting any Change Request insofar as the Change in question is practicable and does not alter the overall nature or characteristics of the Services.

8.3 Any Change Request of the Supplier shall indicate in writing the reasons for said change.

8.4 Any change in any Deliverable, price, delivery date, or contractual provision shall be subject to realization of an amendment to the Contract. Any change in the price of the Services shall be calculated on the basis of the original price.

## 9. Default

9.1 Insofar as Supplier fails to meet any contractual delivery or performance deadline, Supplier shall automatically be deemed in default.

9.2 Insofar as Supplier defaults Supplier shall pay Group Company a contractual penalty amounting to 0.2 percent of the remuneration under the Contract due per day of default, up to a maximum of ten (10) percent of said amount.

9.3 Payment of any such penalty shall be deducted from any damages Supplier is required to pay, but shall not relieve Supplier of any contractual duty whatsoever.

9.4 Insofar as Supplier defaults, Group Company shall be entitled to terminate the Contract in whole or in part.

## 10. Consequences of termination

On termination of the Contract, Supplier shall return to Group Company immediately and without no additional costs all paper and electronic documentation and data related to the Contract and shall retain no copy of such data and/or documentation. Supplier shall also return to Group Company all technical equipment received of Group Company under the Contract.

## 11. Intellectual property rights

11.1 Any intellectual property rights (intangible property and related rights; "Rights") produced by Supplier pertaining to the Services respectively Deliverables, belong to Group Company immediately upon formation of said rights. The foregoing shall apply in particular to any documentation or evaluation that is elaborated in printed or machine readable form, and in particular to any source code, programs, analysis, design and/or program documentation, as well as to any data that is stored on any storage medium whatsoever. Group Company shall therefore be entitled to use the Deliverables in any manner whatsoever, including for the purpose of modifying, copying, and/or commercializing them as well as assigning them to a third party. Group Company may grant Supplier rights to use the Deliverables produced under the Contract.

11.2 Any pre-existing Rights shall remain in force. Supplier shall inform Group Company about pre-existing Rights. With respect to pre-existing Rights appertaining to parts of the Deliverables, Group Company shall receive a non-exclusive, transferrable right to use without restrictions in terms of time, space and substance, which grants Group Company the possibility to use and dispose of the Deliverables within the meaning of clause 11.1. Supplier undertakes not to establish any Rights based on those pre-existing Rights which might be counter against the possibilities of use granted here. In particular, supplier undertakes to transfer or license these rights only subject to the rights of use of Group Company.

11.3 Payment by Group Company shall constitute compensation for said Rights.

11.4 Both parties retain the right to use and dispose of ideas, processes and methods that are not legally protected as well as jointly developed know-how.

## 12. Breach of intellectual property rights

12.1 Supplier warrants that performance of the Service resp. Deliverables does not infringe the Rights of any third parties.

12.2 Supplier shall, at its own expenses, risk and without delay, defend against claims by third parties concerning breach of Rights. Should a third party initiate proceedings against Supplier, Supplier shall without delay inform Group Company in writing. If the third party asserts claims directly against Group Company, Group Company shall notify Supplier promptly in writing and Supplier shall, upon first request of Group Company and to the extent possible under the relevant code of procedure, participate in the lawsuit. If possible, Group Company shall give Supplier sole control over the defense thereof, and of any process related to reaching an out of court settlement of such claim. Supplier shall assume any costs (including compensation for damages) incurred by Group Company in connection with any such claim.

12.3 If, pursuant to the Rights asserted, Group Company is unable to use the contractually owed Deliverables in whole or in part, Supplier has the option of changing its Deliverables in such a way that they do not breach the Rights of third parties but nonetheless comply with the contractually owed Deliverables. If Supplier fails to change the Services within a reasonable period, Group Company may withdraw from the Contract with immediately effect. Supplier shall indemnify Group Company within the framework of clause 17. To the extent that Group Company is responsible for the breach of the Rights, claims against Supplier are excluded.

## 13. Security regulations

13.1 Insofar as Supplier accesses the premises of Group Company and/or any Group Company data and information systems, Supplier shall comply with any access or security regulations.

13.2 Supplier shall advise all personnel and third parties involved in performing the Contract to abide by the access and

security regulations and shall formally obligate said personnel to abide by this covenant. In particular, all personnel of Supplier who spend time in the premises of Group Company and who handle business information and data as well as computer equipment and documentation shall sign the form "Rules of behavior for external personnel" (to be found on [http://www.six-group.com/dam/about/downloads/terms-conditions/rules\\_external\\_personnel\\_en.pdf](http://www.six-group.com/dam/about/downloads/terms-conditions/rules_external_personnel_en.pdf)). Supplier shall keep the signed forms on file and hand over to Group Company on first request.

13.3 Insofar as Supplier accesses the information systems of Group Company, Group Company shall have the right to monitor, record and evaluate Supplier's activities in the information systems.

## 14. Prices and terms of payment

14.1 Supplier shall provide the Services either at fixed prices or on a cost per service basis subject to a maximum amount.

14.2 Group Company assumes 8.4 working hours per working day. However, Group Company expects a commitment to work that is in line with professional business standards and if required to work more than 8.4 working hours per day. Additional working hours may not be charged. If Supplier works less than 8.4 hours per day, only the actual working hours are to be charged.

14.3 The prices for the Services shall include the cost of all elements that are necessary in order to perform the Contract, exclusive charges.

14.4 Charges and VAT shall be itemized on all invoices that are issued to Group Company.

14.5 Group Company shall make payment of any amount owed within thirty (30) days following receipt of the invoice.

14.6 Group Company shall be entitled to request, at any time, that Supplier participate in electronic invoicing (e-invoicing) of SIX within three (3) months following receipt of the request, whereby any cost and expense arising thereof shall be assumed by Supplier. Supplier hereby authorizes Group Company to provide any subcontractor involved in the billing process with any necessary information related to Supplier e.g. information about Supplier, contract, order, invoice etc.

## 15. Non-disclosure

15.1 Supplier shall keep confidential all information, documentation and data that are acquired by Supplier in connection with the process of provisioning the contractual Services ("business secrets"), and shall in particular be prohibited from making Confidential Information available or accessible to any third party or otherwise disclosing Confidential Information. The foregoing shall also apply to any information that falls within the scope of banking secrets.

15.2 Supplier shall advise all personnel involved in performing the Contract of said personnel's obligation to keep business, banking- and exchange secrets confidential, and shall formally obligate said personnel to abide by this covenant. Supplier shall in particular obligate all such personnel to sign the non-disclosure declaration ("Geheimhaltungserklärung") of Group Company, which shall form an integral part of the Contract (non-disclosure declaration to be found on [http://www.six-group.com/dam/about/downloads/terms-conditions/confidentiality\\_statement\\_en.pdf](http://www.six-group.com/dam/about/downloads/terms-conditions/confidentiality_statement_en.pdf)). All such signed documents shall be kept on file by Supplier and handed over to Group on first request.

15.3 A contractual penalty in the amount of the contract value, but not less than CHF 25'000, shall be imposed on Supplier for any breach of clause 15.

15.4 The confidentiality obligations predates conclusion of the Contract and persists after termination of the contractual relationship.

15.5 This non-disclosure obligations shall prevail pre-existing obligations of non-disclosure.

## 16. Data protection and data security

16.1 If Supplier processes personal data when performing the Contract, it shall be responsible for compliance with the statutory data protection provisions. Supplier undertake to take the economically reasonable and technically and organizationally possible measures to ensure that personal data arising in the framework of execution of the Contract are effectively protected against unauthorized knowledge by third parties.

16.2 Supplier shall only process personal data transferred by Group Company in accordance with the directives of Group Company. If Supplier is of the view that any directive issued by Group Company infringes any statutory data protection provision, it shall immediately so advise Group Company.

16.3 Group Company shall be entitled to transfer personal data to other companies within SIX in Switzerland and abroad.

## 17. Liability

17.1 The parties are liable to each other for any damage, loss or injury caused by the other party unless they are able to prove that no fault can be attributed to them.

17.2 Supplier and/or its engaged third parties shall under no circumstances be liable for any damage, loss or injury caused by any force majeure (e.g. war, civil unrest, terrorist attacks, flooding, strikes, forces of nature). If Supplier is prevented from performing the Contract for more than thirty (30) days, Group Company shall have the right to withdraw from the Contract.

## 18. Supplier's status as an independent contractor

18.1 In its capacity as an independent contractor (referred to as a *selbständig erwerbstätige Person* in Swiss law), Supplier shall assume sole responsibility for payment of all taxes, social security benefits, and the like that are payable by Supplier, and shall obtain any insurance coverage desired by Supplier in Supplier's own name.

18.2 If Supplier is classified as a non-independent contractor rather than an independent contractor, Group Company shall be entitled to indemnification of Supplier to the extent that Group Company is required to pay any taxes, social security charges, insurance premiums or the like that are attributable to said classification of Company as a non-independent contractor. Group Company shall be entitled to deduct such expenditures from any relevant Supplier invoice.

## 19. Non-solicitation

19.1 Supplier shall refrain from making any attempt – either on its own account or for any third party – to head-hunt any employee that is involved in performing the Contract.

19.2 Should Supplier violate said prohibition against head-hunting, Supplier shall be subject to a contractual penalty amounting to CHF 100,000 or one year of the head-hunted employee's salary, whichever amount is greater. The foregoing shall be without prejudice to either party's right to lodge claims for damages.

## 20. Liability insurance

20.1 Supplier shall obtain liability insurance that covers any damages that may be attributable to Supplier or the personnel thereof, whereby the amount of the coverage obtained shall be concomitant with the value of the Services.

20.2 At the behest of Group Company, Supplier shall allow Group Company to examine Supplier's liability insurance policy.

## 21. Assignment

21.1 Any assignment of the Contract by both parties to any third party shall be subject to prior written authorization of the other party.

21.2 Notwithstanding the foregoing, Group Company shall be entitled to assign the Contract to any other group company of SIX.

## 22. Written form

Changes and amendments to the Contract as well as termination of the Contract shall be in writing.

## 23. Severability

Should any provision of the Contract be or become void, ineffective or unenforceable in full or in part, the validity and enforceability of all of the remaining provisions shall not be affected. The void, ineffective or unenforceable provision shall be regarded as replaced by the effective and enforceable provision that corresponds as closely as possible to the economic objective of the void, ineffective and unenforceable provision. The same shall apply to any gaps in the Contract.

## 24. Use of Group Company as a reference

Any use of Group Company as a reference shall be subject to Group Company's prior written authorization.

## 25. Applicable law; place of jurisdiction

25.1 The Contract shall be governed by Swiss law, to the exclusion of the provisions of the Vienna Convention (United Nations Convention on Contracts for the International Sale of Goods concluded in Vienna on 11 April 1980).

25.2 The exclusive place of jurisdiction for any disputes arising out of or in connection with the Contract shall be Zürich in Switzerland.

## Supplementary provisions for Service elements with the nature of a work contract:

### 26. Acceptance of the Deliverables

26.1 Group Company shall prove the Deliverables in collaboration with Supplier, and shall submit to Supplier a written description of any defect in the Deliverables that is revealed.

26.2 The Deliverables shall be deemed to have been fully accepted insofar as they are conform with the contractual requirements. An acceptance certificate shall be drawn up following acceptance and shall be signed by both parties.

26.3 Any defect that comes to light during the acceptance process shall be classified as follows:

minor defect: a minor defect shall mean any defect that constitutes a minor impediment to use of the Deliverables in accordance with the contractually defined purpose thereof.

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major defect: a major defect shall mean any defect that constitutes a major impediment to use of the Deliverables in accordance with the contractually defined purpose thereof.

disabling defect: a disabling defect shall mean any defect that completely precludes use of the Deliverables in accordance with the contractually defined purpose thereof.

26.4 Insofar as any minor or major defect comes to light, Group Company shall determine whether or not the Deliverables can be put into operation.

26.5 Insofar as any disabling defect comes to light, the Deliverables shall not be deemed to have been accepted.

26.6 Insofar as Supplier fails to provide the Deliverables in a contractually compliant manner within a reasonable grace period set by Group Company, Group Company shall be entitled to take any of the following actions in Group Company's discretion:

- a) extend the grace period;
- b) deduct the reduced value from Supplier's compensation;
- c) terminate the Contract in whole or in part;
- d) reclaim the applicable documentation and the work that has been done to date, and have any remaining work carried out by Group Company a third party at Supplier's expense and risk.

26.7 Insofar as the acceptance is unsuccessful, a contractual penalty amounting to ten (10) percent of the total price shall be imposed on Supplier, in addition to the rights referred to in clause 26.6.

## 27. Warranty period

27.1 The warranty period shall be at least two (2) years upon date of acceptance pursuant to clause 26.

27.2 The warranty period for any defect that is rectified shall start again as from the date of said rectification.

27.3 Supplier's warranty obligations shall be waived insofar as Group Company makes any changes in the source code, the hardware or any standard interface.

## 28. Documentation

Prior to the acceptance procedure for the Deliverables, Supplier shall provide Group Company with fully reproducible and market-compliant documentation of the operational Deliverables, whereby said documentation shall be provided on paper and electronically, and in the languages specified in the Contract and Supplier shall make updates if necessary.