

## 1. Scope of application

1.1 These Standard Terms and Conditions for Work and Labor Contract ("STC Work and Labor") form an integral part of the Work and Labor Contract ("Contract") concerning purchase and the design of information systems ("Hardware"), the manufacture of individual software, as well as any other contractual products or services ("Deliverables").

1.2 If, in any request for proposal, Group Company refers to the STC Work and Labor, these shall be deemed to be agreed and accepted.

## 2. Realization

2.1 Supplier shall submit reports to Group Company on a regular basis concerning the Deliverables and shall keep Supplier informed with respect to any evolution, factor or circumstance that could result in any change in the Deliverables from a technical, business, financial or economic standpoint.

2.2 Supplier shall report promptly to Group Company any circumstance or factor that could jeopardize provisioning of the Deliverables.

2.3 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. Deployment of staff

3.1 For rendering the Deliverables, 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.

3.2 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.

3.3 Supplier shall only deploy staff with the authorizations required.

## 4. Engagement of third parties

4.1 Any engagement of third parties (subcontractor) 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 Deliverables in a contractually compliant manner.

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

## 5. Change requests

5.1 Group Company shall be entitled to submit written Change Requests concerning the Deliverables 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 Deliverables, 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 work according to plan during the period in which any Change Request is being evaluated.

5.2 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 Deliverables.

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

5.4 Any change in any Deliverable, price, delivery date, or contractual provision shall be subject to realization of an amendment to the Contract to be agreed by both parties. Any change in the price of the Deliverables shall be calculated on the basis of the original price.

## 6. Documentation

6.1 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.

6.2 If any defect is detected in the Deliverables, Supplier shall update the documentation and source code promptly, insofar as necessary.

## 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. Insofar as said scope is not defined in the Contract, an installation manual and an operating manual shall be deemed to fulfill the entirety of Supplier's training obligations pursuant to this clause. Supplier warrants the provision of instruction from Acceptance (clause 9) on.

## 8. Import requirements / Export restrictions

Supplier guarantees compliance with any export restrictions and import regulations from the place of origin to the place of delivery according to the Contract. Supplier informs Group Company in writing about any export restrictions of the country of origin.

## 9. Acceptance of the Deliverables

9.1 Group Company shall verify (tests, demonstrations, etc.) the Deliverables ("Acceptance Testing"), in collaboration with Supplier, and shall submit to Supplier a written description of any defect in the Deliverables that is revealed by Testing.

9.2 The Deliverables shall be deemed to have been fully accepted insofar as all Hardware and individual software that are delivered pursuant to the Contract possess no defect of any kind during a sixty (60) days operating period in the relevant production environment. An acceptance certificate

shall be drawn up following Acceptance and shall be signed by both parties.

9.3 Any defect that comes to light during the Acceptance Testing 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.

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.

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

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

9.6 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:

- extend the grace period;
- deduct the reduced value from Supplier's remuneration;
- terminate the Contract in whole or in part
- 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.

9.7 Insofar as 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 9.6.

## 10. Default

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

10.2 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 10 percent of said amount. Application of the foregoing shall be excluded.

10.3 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.

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

## 11. Warranty period

11.1 The warranty period shall be at least two (2) years upon date of acceptance pursuant to clause 9.

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

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

## 12. Notice of defect

12.1 Notice regarding any defect in the Deliverables can be provided at any time during the warranty period. Group Company shall not be required to conduct any testing.

12.2 Notice of any willfully concealed defect may be made within a period of ten (10) years following the date of Acceptance.

## 13. Termination

13.1 Group Company shall be entitled to terminate the Contract due to any of the following reasons:

- unsuccessful Acceptance (clause 9)
- any default on contractual delivery or performance deadline (clause 10)
- exceeding the fixed price (clause 20)

13.2 Group Company shall be entitled to terminate the Contract at any time insofar as Group Company indemnifies Supplier therefor as provided by law.

## 14. 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.

## 15. Intellectual property rights

15.1 Any intellectual property rights (intangible property and related rights; "Rights") produced by Supplier pertaining to the Deliverables within the framework of production and maintenance, 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.

15.2 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 15.1. Supplier undertakes not to establish any Rights based on those pre-existing Rights which might be asserted 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.

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

15.4 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.

15.5 Group Company shall be entitled to make copies of any used standard software for archiving and backup purposes, and to use said software as backup software during any downtime period, without incurring any additional charge for such use.

## 16. Breach of intellectual property rights

16.1 Supplier warrants that performance of the Deliverables does not infringe the Rights of any third parties.

16.2 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.

16.3 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, or of obtaining a licence from the third party at its own expense. If Supplier fails to implement any of these options within a reasonable period, Group Company may withdraw from the Contract with immediately effect. Supplier shall indemnify Group Company within the framework of clause 23. To the extent that Group Company is responsible for the breach of the Rights, claims against Supplier are excluded.

## 17. Source code

Insofar as Supplier is no longer able to provide technical support and maintenance for any reason whatsoever, especially due to levy of execution, bankruptcy, composition proceedings, Group Company shall be entitled to access Supplier's source code. In the interest of ensuring that said source code is readily available, Group Company shall be entitled to require, at any time that the source code be safeguarded either by being deposited at an independent third party or via realization of the relevant technical measures on a system of Group Company's choice; and that such source code be kept updated. The cost and expense of all such measures shall be assumed by Supplier.

## 18. Maintenance and upkeep

18.1 Supplier shall maintain the interoperability of the Deliverables (e.g. Hardware and individual and standard software) that is accepted, whereby said interoperability shall be provided for a period of forty-eight (48) months following expiration of the warranty period referred to in clause 11.

18.2 Supplier shall supply Group Company with replacement and extension components for the Hardware and the Deliverables, under conditions that are usual in the

market, for a period of no less than six (6) years following Acceptance (pursuant to clause 9).

18.3 Supplier shall provide Group Company with technical support (maintenance and repairs) for the Deliverables (e.g. Hardware as well as standard and individual software) for a period of no less than four (4) years following expiration of the warranty period, insofar as such maintenance and repairs are requested by Group Company. There Deliverables e.g. releases, updates, upgrades established thereby are subject to clause 15.1.

## 19. Security regulations

19.1 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.

19.2 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" (form to be found on [www.six-group.com/about/en/shared/procurement/home.html](http://www.six-group.com/about/en/shared/procurement/home.html)). Supplier shall keep the signed forms on file and hand over to Group Company on first request.

19.3 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.

## 20. Compensation and terms of payment

20.1 Company shall provide the Deliverables on the basis of fixed prices.

20.2 The fixed prices shall include the cost of all elements that are necessary in order to perform the Contract and in particular installation, testing and documentation costs, incidental expenses, licensing fees, packaging costs, shipping, insurance and off-loading costs, any taxes or other government charges.

20.3 Payment shall be owed upon Acceptance, pursuant to Clause 9. Group Company shall make payment of any amount owed within thirty (30) days following receipt of the invoice.

20.4 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.

## 21. Non-disclosure

21.1 Supplier shall keep confidential all information, documentation and data that are acquired by Supplier in connection with the process of provisioning the contractual Deliverables ("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.

21.2 Supplier recognizes in particular that Group Company, as a regulated Luxembourg payment institution under the supervision of the Commission de Surveillance du Secteur Financier ("CSSF"), is under an obligation of professional secrecy, in application of article 30 of the law of 10 November 2009 on payment services, as amended (hereafter the "Law on Payment Services").

21.3 In application of article 30 of the Law on Payment Services, all persons working for a payment institution shall be required to keep secret any information confided to them in the context of their professional activities. Disclosure of such information shall be punishable by the sanctions laid down in Article 458 of the Penal Code.

21.4 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. All such signed documents shall be kept on file by Supplier and submitted to Group Company on first request.

21.4 A contractual penalty amounting to the contract value, but not less than EUR 25'000, shall be imposed on Supplier for any breach of clause 21.

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

21.6 This non-disclosure obligation shall prevail pre-existing obligations of non-disclosure.

## **22. Data protection and data security**

22.1 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.

22.2 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.

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

## **23. Liability**

23.1 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.

23.2 Supplier and/or its engaged third parties shall under no circumstances be liable for any damage, loss or injury caused by any force majeure event (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.

## **24. Non-solicitation**

24.1 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.

24.2 Should Supplier violate said prohibition against head-hunting, Supplier shall be subject to a contractual penalty amounting to EUR 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.

## **25. Liability insurance**

25.1 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 Deliverables.

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

## **26. Assignment**

26.1 Any assignment of the Contract by either party to any third party shall be subject to prior written authorization of the other party.

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

## **27. Written form**

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

## **28. 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.

## **29. 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.

## **30. Applicable law; place of jurisdiction**

30.1 The Contract shall exclusively be governed by and construed in accordance with Luxembourg law.

30.2 The Luxembourg Courts shall have exclusive jurisdiction to resolve any disputes relating to the application, performance or interpretation of this Contract.