

GENERAL TERMS OF PURCHASE of CustomSurg AG

(hereafter referred to as "CustomSurg")

1. Scope and Applicability

- 1.1. These General Terms and Conditions of Purchase (the "GTOP") regulate the contractual relationships between CustomSurg and the supplier (the "PARTIES"). They apply regardless of the subject matter to all SERVICES that CustomSurg obtains from the supplier, even if the GTOP is not explicitly referred to in individual cases.
- 1.2. The supplier's general terms and conditions are expressly excluded.
- 1.3. Defined terms have the same meaning in all documents belonging to the CONTRACT.

2. Conclusion of Contract and Contractual Components

- 2.1. Offers from the supplier are valid for 90 days unless the offer specifies a different validity period.
- 2.2. A CONTRACT between CustomSurg and the supplier (the "CONTRACT") is concluded as follows:
 - 2.2.1. by both parties signing a written contract document (the "CONTRACT DOCUMENT"); or
 - 2.2.2. by CustomSurg signing the offer or an order confirmation from the supplier.
- 2.3. The CONTRACT consists of the following components, with the following hierarchy in case of contradictions:
 - 2.3.1. CONTRACT DOCUMENT or offer or order confirmation;
 - 2.3.2. these GTOP from CustomSurg;
 - 2.3.3. appendices to the document mentioned in the preceding item 2(c)(i).
 - 2.3.4. Deviations from the GTOP are only valid if documented in the CONTRACT DOCUMENT or offer or order confirmation.

3. Services The supplier provides the SERVICES specified in the CONTRACT (the "SERVICES"). The following types of services are applicable:

- 3.1. Project services with result responsibility (the "PROJECT SERVICES");
- 3.2. Consulting services without result responsibility (the "CONSULTING SERVICES");
- 3.3. Deliveries of products (the "DELIVERIES");
- 3.4. Granting of license rights (the "LICENSES");
- 3.5. Maintenance services (the "MAINTENANCE SERVICES");
- 3.6. Operating services (the "OPERATING SERVICES").

4. Place of Performance and Delivery Conditions

- 4.1. The place of performance is located at CustomSurg's registered office.
- 4.2. DELIVERIES are made free domicile of CustomSurg, and the risk passes upon delivery to CustomSurg.
- 4.3. Partial DELIVERIES are only permissible if agreed upon between the PARTIES.

5. Inspection and Acceptance

- 5.1. The inspection of the SERVICES is not tied to a specific deadline. However, it takes place as soon as deemed reasonable and appropriate under the circumstances.
- 5.2. A special acceptance inspection and accompanying documentation are carried out if agreed upon. In all other cases, the time of the complete delivery of the SERVICES is considered acceptance.

6. Employees and Subcontractors

- 6.1. The supplier only employs qualified staff to provide the SERVICE. The supplier is obligated to comply with all applicable regulations regarding its employees (especially labor, occupational health and safety, social insurance, and tax regulations).
- 6.2. For borrowed employees, in particular, the provisions of the Personnel Leasing Act must be observed, and the supplier confirms upon conclusion of the CONTRACT that they have the necessary approval for personnel leasing. The use of borrowed employees from abroad is not allowed.

- 6.3. There is no contractual relationship (especially no employment contract) between the supplier's employees and CustomSurg arising out of or in the context of the provision of the SERVICES by the supplier.
- 6.4. The supplier indemnifies CustomSurg from all claims made by employees, authorities, or other third parties against CustomSurg in connection with a violation of clauses 6(a) - 6(c).
- 6.5. Involvement of subcontractors requires prior written approval from CustomSurg. For SERVICES of its approved subcontractors, the supplier is liable as for its own.

7. Deadlines and Delay

- 7.1. The supplier provides the SERVICES according to the agreed deadlines in the CONTRACT.
- 7.2. If the supplier fails to meet a delivery deadline or a milestone deadline, it is in default without further notice. For other deadlines, default occurs only after a reminder and the expiry of the specified grace period.
- 7.3. If the supplier is in default, CustomSurg, after setting another grace period, can either a) at the cost of the supplier, perform the SERVICE owed by the supplier themselves or have it performed by a third party (substitution), b) withdraw from the CONTRACT and demand the repayment of the compensation already provided, plus damages, or c) insist on the supplier's performance (subject to damages).
- 7.4. If the supplier is in default, they shall owe a penalty of 0.5% of the compensation per day of delay, but not exceeding 10% of the total compensation. Payment of the penalty does not exempt the supplier from their contractual obligations. Further damages are reserved.

8. Participation by CustomSurg

- 8.1. In the sense of an obligation to cooperate, CustomSurg creates the conditions for the Supplier to provide its SERVICES.
- 8.2. If CustomSurg is in default with a duty to cooperate, the Supplier shall promptly issue a written reminder to CustomSurg.

9. Compensation

- 9.1. CustomSurg pays the Supplier the compensation specified in the CONTRACT, with the compensation being calculated either based on effort, effort with a cost ceiling, or as a lump sum or fixed price.
- 9.2. In the case of compensation based on effort, only the working time actually spent for CustomSurg (excluding travel time) can be invoiced.
- 9.3. All incidental costs, expenses, and social benefits for deployed personnel, as well as all taxes and levies associated with the provision of SERVICES, are covered by the compensation specified in the CONTRACT, except for value-added tax. Value-added tax is separately stated and reimbursed.

10. Reporting

- 10.1. The Supplier creates a report on its SERVICES in the format and at the requested time specified by CustomSurg.
- 10.2. The SERVICES provided are to be itemized by person, date, content, and duration (for compensation based on effort).

11. Invoicing Invoices from the Supplier are to be paid within 30 days from receipt of the invoice by CustomSurg. CustomSurg reserves the right to reject the invoice if it is obviously incorrect (e.g., invoice amount exceeding an agreed lump sum).

12. Changes in Services and Additional Services

- 12.1. Changes in SERVICES and the commissioning of additional services require prior commissioning before the execution of the corresponding SERVICE.
- 12.2. If a SERVICE is considered by the Supplier to be a change in SERVICE or an additional SERVICE, the Supplier must notify CustomSurg in writing before execution in any case.

13. Work Results and Intellectual Property Rights

- 13.1.** All work results belong exclusively to CustomSurg. This also includes intellectual property rights (copyrights, patent rights, and rights regarding know-how) created by the Supplier alone or in collaboration with CustomSurg.
- 13.2.** The Supplier ensures that the employees and subcontractors employed by them have agreed to the transfer of these rights.

14. Warranty

- 14.1. Notice of Defects Defects can be reported throughout the warranty period.
- 14.2. PROJECT SERVICES, DELIVERIES, and LICENSES
 - 14.2.1. For PROJECT SERVICES, DELIVERIES, and LICENSES, the Supplier warrants that they have the agreed, assured, and presupposed properties.
 - 14.2.2. The warranty period is 2 years, starting from acceptance.
 - 14.2.3. For defects reported during the warranty period, CustomSurg is entitled to free rectification of defects (in the case of DELIVERY, at CustomSurg's free choice, free replacement delivery, provided it is not a minor defect). The rectification of defects (or replacement delivery) triggers a new warranty period.
 - 14.2.4. If the Supplier is unable to rectify a confirmed defect (or provide replacement delivery in the case of DELIVERY), CustomSurg, after setting a reasonable subsequent deadline in writing, is entitled to rectify the defect itself or by a third party (substitution), to reduce the compensation by an amount corresponding to the diminished value, or to insist on the Supplier's performance (subject to compensation).
 - 14.2.5. If the Supplier is in default, it shall in any case owe a penalty of 0.5% of the compensation per delay day, but a maximum of 10% of the total compensation. The payment of the penalty does not exempt the Supplier from its contractual obligations. The assertion of further damages remains reserved.

- 15. **Legal Warranty.** The Supplier warrants that its SERVICES (including the services of any authorized subcontractors) do not infringe the intellectual property rights of third parties. If CustomSurg is claimed by third parties as a result, the Supplier is obliged to establish a lawful condition within a period set by CustomSurg. If this is not possible or foreseeable from the outset, CustomSurg is entitled to withdraw from the CONTRACT and demand compensation for any payments made. Furthermore, CustomSurg is entitled to demand that the Supplier enters the dispute at its own expense. The warranty period for legal warranty is 10 years from acceptance.

- 16. **Export Control.** The Supplier undertakes to apply and comply with the relevant export control regulations in the course of performing the work. In particular, the Supplier is obliged to inform CustomSurg in writing of the export control assessment, particularly under EU and US law, if necessary.

17. Compliance

- 17.1. In general and during the term of the contract, the Supplier ensures compliance with all applicable laws, regulations, and directives, including (but not limited to) all anti-corruption laws and regulations as well as regulations against forced labor. CustomSurg expects its Supplier, in particular, to comply with all principles set forth in the UN Global Compact and the International Bill of Human Rights as well as in the Basic Agreement of the International Labour Organization (ILO). In connection with the SERVICES under this CONTRACT and other services provided to CustomSurg, the Supplier has not committed any prohibited acts, directly or indirectly, and will not do so in the future. Prohibited acts include promising, offering, or granting, or requesting or accepting an impermissible benefit or advantage to influence actions in an impermissible manner. Any suspicion of violations or possible breaches must be reported to CustomSurg immediately. CustomSurg and its customers have the right to audit the Supplier and verify compliance with the provisions of this clause. The audit is carried out with prior notice, to a reasonable extent, at the usual location and during normal business hours.
- 17.2. In the event of a Supplier's violation of the obligations of this clause, CustomSurg is entitled to terminate the CONTRACT without further obligations or liability to the Supplier. The Supplier shall indemnify CustomSurg fully and hold CustomSurg harmless from all damages, losses, withholding

of payments, claims, and demands by third parties arising out of or in connection with the breach and/or termination.

18. Liability and Limitation

18.1. The Supplier's liability is governed by the statutory provisions.

18.2. Claims for damages become statute-barred regardless of any shorter warranty periods in 10 years from their inception.

19. Indemnification

19.1. If CustomSurg is claimed by third parties or by government authorities in connection with the SERVICES, the Supplier is obliged to indemnify.

19.2. This indemnification (and any further indemnification in the CONTRACT) includes, in addition to the reimbursement of legitimate third-party claims, the legal costs of CustomSurg.

20. Force Majeure

20.1. If a PARTY is prevented from fulfilling its contractual obligations in whole or in part due to force majeure, the affected PARTY is exempt from liability for non-performance as long as the force majeure persists.

20.2. Force majeure refers to events that affect the PARTIES from outside and over which the PARTIES have no influence. Cases of force majeure include, in particular: disturbances in the public power supply, the communication infrastructure, and the transport routes, government measures, virus or hacker attacks, fire, extraordinary weather conditions, epidemics/pandemics, nuclear and chemical accidents, earthquakes, war, terrorist attacks, strikes, and sabotage, etc.

20.3. If the force majeure event lasts more than 30 days, either PARTY may retrospectively terminate the contract to the date of the occurrence of force majeure. SERVICES provided up to that point shall be compensated.

21. Data

21.1. When processing CustomSurg's information (the "CUSTOMER DATA"), the Supplier is deemed a data processor. CustomSurg is the owner of the CUSTOMER DATA.

21.2. The Supplier undertakes to process CUSTOMER DATA exclusively on behalf of CustomSurg and in accordance with data protection legislation as well as any applicable special laws (e.g., banking supervision, professional secrecy, telecommunications legislation).

21.3. CustomSurg may demand the return of CUSTOMER DATA from the Supplier at any time. Furthermore, CustomSurg may request the Supplier in writing at any time to delete CUSTOMER DATA.

22. Confidentiality

22.1. The PARTIES undertake to maintain confidentiality regarding all facts, information, and data that become known to them in connection with a CONTRACT and about which the other PARTY has an interest in confidentiality. The obligation of confidentiality also includes the prohibition of use for purposes outside the CONTRACT and the mention of CustomSurg or CustomSurg's customers as reference customers or in the Supplier's advertising materials without CustomSurg's prior written consent.

22.2. The obligation of confidentiality continues beyond the termination of the contract as long as there is an interest in confidentiality.

22.3. Information that is generally known or that has been lawfully acquired by a PARTY independently of the contractual relationship is not subject to confidentiality. Legal disclosure obligations remain reserved.

22.4. The PARTIES shall ensure that their employees, auxiliary persons, and authorized subcontractors are obliged to comply with the obligations of confidentiality.

23. Term of the Contract

23.1. Ordinary Term of the Contract

23.1.1. Contracts for PROJECT SERVICES and DELIVERIES end upon fulfillment.

23.1.2. Contracts for OPERATIONS and MAINTENANCE SERVICES are concluded for the duration specified in the contract and are terminable by both parties with a notice period of six (6) months to the end of the respective term.

23.2. Termination for Cause

23.2.1. Each PARTY has the right to terminate the CONTRACT with immediate effect for good cause.

23.2.2. Good cause includes, among other things:

23.2.2.1. material breach of the contract by the other PARTY, which is not remedied within a reasonable period despite a written warning with a deadline,

23.2.2.2. opening of insolvency or similar proceedings or discontinuation of payments by a PARTY.

23.2.3. In the event of termination for cause by CustomSurg, the Supplier shall reimburse CustomSurg for the necessary expenses already incurred in connection with the performance of the SERVICES.

23.3. Rights of Termination

23.3.1. The right to ordinary and extraordinary termination for cause remains unaffected.

23.3.2. Termination must be in writing.

23.4. Consequences of Termination

23.4.1. In the event of termination, all outstanding payments to the Supplier shall be settled pro rata for the SERVICES rendered up to the date of termination.

23.4.2. Upon termination, the Supplier shall promptly deliver to CustomSurg all work results, documents, and other items provided by CustomSurg.

24. Miscellaneous

24.1. Amendments and additions to the CONTRACT must be made in writing to be valid.

24.2. Should individual provisions of the CONTRACT be or become invalid, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced by a valid provision that comes as close as possible to the economic purpose of the invalid provision.

24.3. The law of Switzerland applies to the contractual relationship.

25. Place of Jurisdiction and Fulfillment. The exclusive place of jurisdiction and fulfillment is the registered office of CustomSurg in Zurich, Switzerland.

Contact us

If you have any concerns or questions regarding these Terms, please contact us at info@customsurg.com

Effective date of the Terms and Conditions: October 4, 2023

Last updated on: October 4, 2023