

General Terms & Conditions

1. Scope

- 1.1. FULANDIS INTERNATIONAL AG offer their services, in particular the products referred to under section 2, based upon following General Terms & Conditions (hereinafter referred to as T&C). These T&C shall also be valid for all future business relationships, even if not expressly mentioned again later. FULANDIS INTERNATIONAL AG does not recognize any other terms and conditions, specifically not those of the Customer, and all deviations from these T&C are expressly not accepted. By confirming a quotation in writing or placing an order, Customer accepts these T&C of FULANDIS INTERNATIONAL AG.
- 1.2. Alterations to these T&C are legally binding only if confirmed in writing and signed by FULANDIS INTERNATIONAL AG or its legal representative.
- 1.3. Employees or subcontractors of FULANDIS INTERNATIONAL AG are not entitled to alter or extend these T&C or any quotations by giving additional verbal assurances.
- 1.4. FULANDIS INTERNATIONAL AG shall have the right to alter or amend the current T&C and/or any accompanying documents such as terms of use or performance descriptions at any time without prior notice. The currently valid version of the T&C is published on the website of FULANDIS INTERNATIONAL AG.

2. Definitions

- 2.1. „Supplier“ means FULANDIS INTERNATIONAL AG, and its employees.
- 2.2. „Product“ means all products, devices, services, consulting, know-how, information, documents, quotations, concept studies, methodologies, procedures, drawings, presentations, samples, electronic media, patents, royalties, transferred to Customer during the business relationship.
- 2.3. „Customer“ means the client who orders or receives such Product from Supplier.
- 2.4. „eShop“ means any electronic offers or website shop systems of Fulandis International AG.

3. Quotation

- 3.1. Quotations and product demonstrations are free of charge unless otherwise agreed.
- 3.2. Any deviations from the RFQ are indicated explicitly in Supplier's offer.
- 3.3. Unless stated otherwise in writing, written quotations are binding for Supplier for 30 (thirty) days from date of quotation. Quotations on eShop are binding for a particular order only, and only if the order has been confirmed. Prices on eShop are subject to change at any time. If the price on eShop changes after an order has been confirmed no refund of the price difference will be given.
- 3.4. All documents and samples provided in the quotation remain property of Supplier.
- 3.5. Customer shall not be entitled to make available quotations or parts of it to third parties, especially not to competitors of Supplier, unless approved by Supplier in writing.
- 3.6. Values indicated in the quotation as being raw estimates are not binding in any form and shall only serve to establish a rough order of magnitude.
- 3.7. Until a contract is signed or Supplier's quotation has been accepted in writing by Customer, both contract parties shall have the right to withdraw from negotiations without financial consequences.

4. Conclusion of Contract

- 4.1. The contract comes into effect by signature of both parties or by written and signed order confirmation (acceptance of the quotation) by Customer, or by a concluded transaction on eShop with order confirmation. In case Customer deviates in his order confirmation from quotation, Supplier is not bound by these deviations unless explicitly confirmed in writing. Customer has the right to revoke orders on eShop within 14 (fourteen) days without any specific reason and free of charge. Any made payments will be refunded. Any transaction fees of Customers bank or loss due to currency exchange rates and related fees have to be borne by Customer. After this time, eShop orders come into effect and must not be altered anymore without the written consent of supplier. Supplier can cancel eShop orders at any time and refund any made payments as per regulation above.
- 4.2. Coming into effect of the contract may also be subject to a prepayment or provision of adequate securities.
- 4.3. In case Supplier uses subcontractors to perform certain services, these subcontractors shall not become contract partners of Customer.

Postal Address

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International Websites

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Legal

Place of venue is Rebstein, Switzerland.
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5. Delivery

- 5.1. Supplier undertakes to deliver Product to Customer within the time frame agreed in the order confirmation. Customer undertakes to accept the Product and effect payment as agreed in the order confirmation.
- 5.2. Only delivery dates confirmed in writing shall be binding for Supplier. Such delivery dates may be extended appropriately
- a) if information required for execution of Product ordered is not passed to Supplier in time or changed by Customer after placement of order;
- b) if Customer is overdue with agreed works or other contractual obligations, especially if in default of payment;
- c) in any event of force majeure which is beyond control of Supplier, such as natural disaster, mobilization of armed forces, war, riots, strikes, epidemics and diseases, accidents, significant disruption of normal business activities, delayed or faulty deliveries from subcontractors or government restrictions, such as embargos.
- 5.3. Supplier shall have the right to partial deliveries.
- 5.4. In case of delivery delays, Customer shall grant Supplier a reasonable period of grace to supply the Product. Should Supplier fail to comply also with the extended delivery date, Customer may refuse to accept all further deliveries and even withdraw from the contract if declared so within 30 days from the date of expiry of the grace period. Customer is not entitled to claim further damages for non-delivery or delivery delays.

6. Delivery and Fulfillment

- 6.1. Scope and dates of delivery are based upon confirmed quotation.
- 6.2. Should Customer request changes to the quotation, Supplier shall notify Customer within two weeks if these changes are possible, and if so which implications on work performance, prices and delivery dates they will have.
- 6.3. Supplier shall not be obligated to perform such changes to Products already completed or delivered.

7. Place of Delivery / Transfer of Risk

- 7.1. Unless agreed otherwise in writing or unless resulting from the nature of the Product, place of delivery shall be at Supplier's registered seat.
- 7.2. Possession and risk shall pass to Customer at place of delivery.

8. Prices and Terms of Payment

- 8.1. Supplier shall deliver Product to agreed prices as per quotation or in accordance with his currently valid price list. If not otherwise agreed upon in writing, Supplier's current price list at the date of order confirmation is accepted by Customer and constitutes the basis of the Product price.
- 8.2. Unless agreed otherwise, prices are deemed to be exclusive of VAT, customs duties, freight and transport cost, packaging, insurance, installation, setup cost, training, and customer support. Customer shall make all payments in the stated currency, free of deductions of any kind such as, but not limited to discounts, expenses and taxes to the bank account designated in Supplier's invoice.
- 8.3. Unless agreed otherwise, services delivered outside international office hours at place of delivery are subject to following surcharges to agreed hourly or daily rates:
- | | |
|---|------|
| a) Monday – Friday, before 07:00am and after 19:00pm: | +25% |
| b) Saturday, 00:00am to 24:00pm: | +25% |
| c) Sunday, 00:00am to 24:00pm: | +50% |
- 8.4. Payments shall be due within 30 (thirty) days after date of invoice. Supplier is entitled to shorten this time period or to ask for prepayment, partially or in full, if so quoted.
- 8.5. Unless stated otherwise, Supplier shall be entitled to demand up to 50% prepayment of quoted price and monthly installments matching the work progress.
- 8.6. Customer shall not be entitled to withhold payment on the grounds of any complaint or claim and shall not be entitled to set off payments due against any counterclaim unless agreed upon by Supplier or ordered by a competent court.
- 8.7. 10 days after expiry of due date of payment and without having to receive a collection notice, Customer shall be deemed in default and payments shall be subject to a penalty interest rate of 8% per annum in addition to the overdue amount.

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- 8.8. As long as the overdue payment including penalty interest is not fully received by Supplier, Product shall remain the sole property of Supplier. In this case, Supplier expressly reserves the right to withdraw from the contract and to reclaim already delivered Products. Supplier further reserves the right to protect Products against the right of retention.
- 8.9. Supplier expressly reserves the right for further claims.

9. Duties of Supplier

- 9.1. Supplier undertakes to exercise all due diligence and to deliver the Product in good quality.
- 9.2. Supplier undertakes further to carefully select and educate his employees and to warrant their proper work and supervision.
- 9.3. Customer is entitled to request a monthly status report of the project.

10. Duties of Customer

- 10.1. If required, Customer shall provide appropriate infrastructure and work space to Supplier. Supplier's employees are granted free access to Customer's premises as far as necessary for the execution of their work.
- 10.2. Customer undertakes to provide all relevant and up to date information required to create Product and fulfill the contract.
- 10.3. Customer shall allocate carefully selected staff to the project as necessary and shall ensure their proper education, work and supervision.
- 10.4. Sufficient staff shall be allocated in time for required acceptance and testing of applications, handling and training in connection with delivered Product. Customer shall provide all required hardware in a timely manner. Customer shall supervise all work in connection with Product and shall share the responsibility for the correct implementation of Product. Furthermore, Customer undertakes
- to pay remunerations and fees in a timely manner;
 - to not misuse delivered Products or use them in an abusive manner and to refrain from any illegal activities;
 - to ensure that all local laws and governmental regulations are complied with and that all required permits, now or in future, are applied for in a timely manner;
 - to comply with state of the art rules of data protection and data storage, specifically to ensure password security and to enforce password changes if there are reasons to believe that information may have leaked to unauthorized third parties;
 - to notify Supplier of all recognizable defects or damages and all disruptions of normal working activity without delay;
 - to take all actions possible to determine the nature and cause of the problems or deficiencies and to enable or accelerate their removal.

11. Warranty and Notification of Defect

- 11.1. Supplier shall warrant to Customer to exercise all due diligence required and that the Product delivered is in accordance with quotation of Supplier. Customer is aware and accepts that even under utmost precaution errors and mistakes in consultancy and production are possible.
- 11.2. Supplier shall not be liable for defects of Product beyond his control such as but not limited to normal wear and tear, force majeure, inappropriate or excessive use, modifications, extreme environmental conditions or use of inappropriate spare parts.
- 11.3. Supplier shall not be liable if defect is caused by Customer or any third party, specifically by unauthorized modifications and repairs or misuse of Product.
- 11.4. Supplier shall not be liable for damages to the Customer, should Customer not be able to fulfill certain of his own contractual duties to third parties, for damages incurred from test runs, from loss of data, as well as for all indirect and consequential damages such as loss of revenue or claims from third parties against Customer.
- 11.5. These limitations shall also apply to end customers of Customer.
- 11.6. Under warranty, Supplier shall repair or correct any defects of Product relating to its warranted qualities in the quotation and which are verifiably due to lack of diligence by Supplier. Customer shall provide a detailed and complete report and documentation in order to locate and determine the defect.
- 11.7. Both parties shall agree on delivery and acceptance of corrected Product. Unless stated otherwise, Customer shall check and approve the corrected Product or notify Supplier of further defects in writing.
- 11.8. In case Supplier does not receive any such notification within two weeks after delivery, delivered Product is deemed to be free of defects and delivery deems to be accepted.
- 11.9. In case a certain acceptance procedure has been agreed upon by the parties which is delayed by reasons not to be borne by Supplier, Customer shall nevertheless be obligated to comply with agreed terms of payment.

- 11.10. By acknowledging or removing a defect, the relevant warranty period and period of limitation are not prolonged.
- 11.11. All further warranty claims are expressly excluded.

12. Information

- 12.1. The parties undertake to inform each other in time regarding special technical requirements as well as regarding legal, governmental, or other regulations at the place of use of Product, as far as they are relevant for proper implementation, use and application of the Product.
- 12.2. Furthermore, both parties undertake to notify each other in time regarding potential obstacles which could hinder fulfillment of contract or lead to solutions deemed to be unsatisfactory.

13. Rights of Use, Intellectual Property Rights and Copyright

- 13.1. All intellectual property rights including trademarks, patents, copyrights, royalties, licenses, etc. shall remain property of Supplier or its licensors. Customer is entitled to use intellectual property rights only as specifically agreed upon in writing.
- 13.2. All other products and product related ideas, concepts, methods, processes, patent rights developed by Supplier during fulfillment of contract shall be exclusively owned by Supplier.
- 13.3. Supplier shall have the right to use Product, modifications or copies thereof, always with due regard to confidentiality issues, for own promotional purposes or for developing further products.
- 13.4. Specifically, and in addition to the provisions in paragraph 13.1 – 3, following shall apply:
- Unless otherwise agreed in writing, Supplier transfers to Customer solely the non-exclusive right of use of Product, against payment of fees as specified, for an unlimited period of time, and for the scope and use as specified in the quotation;
 - This right of use is solely granted to Customer who is not entitled to resell, rent or transfer it in any other way to third parties;
 - Unless otherwise agreed in writing, Customer is not entitled to use Product before payment to Supplier in full;
 - All other products developed during the fulfillment of the contract, as described in paragraph 13.2., remain intellectual property of Supplier;

14. Intellectual Property of Third Parties

- 14.1. Customer acknowledges that Products, Trademarks, Company names referred to within Supplier's documents and Products may be protected.
- 14.2. Both parties confirm to each other that no tools and information used during production of Product do infringe intellectual property rights of third parties.
- 14.3. Should an infringement of intellectual property rights of third parties (patents, trademarks, licenses, etc.) nevertheless occur in connection with Product, Customer shall notify Supplier hereof immediately in writing. Customer shall not file any legal action without prior consent of Supplier, and, upon request, shall leave handling of all legal actions, including court appearances and out-of-court settlements, to Supplier.
- 14.4. Should use of Product become impossible due to a court order or if Supplier has reasonable grounds to suspect that the use would incur a claim for infringement of intellectual property rights, Supplier shall have the right, at his own discretion, to decide on following measures:
- to modify Product in a way that it does no longer infringe intellectual property rights of third parties;
 - to obtain the legal right of use of Product for Customer from third parties;
 - to replace Product by another product which does not infringe intellectual property rights but equals delivered Product in function and value and/or can be used by Customer in the same manner as delivered Product;
 - to take back Product and refund Customer the paid amounts, deducting an appropriate part for usage up to this date;
- 14.5. Above obligation is null and void if the infringement is due to a concept originally provided by Customer, or in case Product has been altered by Customer or third parties after delivery or Product is used outside intended and warranted scope.

15. Confidentiality

- 15.1. Both parties agree to treat all information received from each other as confidential, to handle it with the same care and confidentiality as their own trade secrets, not to make information available to third parties and to undertake all due efforts to make access to this information impossible to third parties .

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- 15.2. Both parties agree to disclose confidential information received only to persons within their organization which have a need to know for purposes of fulfillment of the contract, and then only on the understanding that such persons are made aware of and undertake to observe the provisions of this confidentiality agreement.
- 15.3. Both parties shall use such confidential information for the agreed purposes only.
- 15.4. Each party shall be entitled to use general knowledge acquired during regular conduct of their business. All publications regarding Product or its use for commercial or scientific purposes are subject to prior written consent of Supplier.
- 15.5. This confidentiality comes into effect, even before conclusion of the contract or placement of an order and remains in effect after contract fulfillment. Confidentiality must not longer be observed if
- the party providing the information has no verifiable interest in maintaining confidentiality;
 - the information was verifiably in the possession of the receiving party already before disclosure by the other party;
 - the information is in the public domain;

16. Liability

- 16.1. Within the scope of his own liability insurance, Supplier shall be liable for damages and bodily injury only in case of gross negligence or intentional misconduct of Supplier or its subcontractors.
- 16.2. All further damages, specifically indirect and consequential damages such as, but not limited to loss of profit, loss of orders, loss of data or claims of third parties, are expressly excluded.

17. Term and Termination

- 17.1. These T&C shall be valid for an unlimited period of time.
- 17.2. Customer shall have the right to terminate the contract at any time against full compensation of Supplier for all deliveries made and full loss of profit, as well as any other cost arising out of the cancellation of the contract.

18. Conditions for Support

- 18.1. Unless stated otherwise, these T&C shall also be valid for separate support agreements.
- 18.2. Unless otherwise agreed in writing, place of delivery for all support activities shall be the premises of Supplier. Required support at premises of Customer shall be subject to a separate agreement.
- 18.3. Without conclusion of a support agreement, all support activities from Supplier will be invoiced on a monthly basis in accordance with Supplier's currently valid price list or pursuant to any other validly concluded pricing agreement.

19. Applicable Law and Place of Jurisdiction

- 19.1. The laws of Switzerland, excluding the United Nations Convention on the International Sale of Goods dated 11 April 1980, shall govern these T&C and all accompanying documents.
- 19.2. Both parties undertake to use their best efforts to find an amicable solution to all disputes, claims or controversies arising out of or in connection with these T&C.
- 19.3. Should an amicable settlement could not be reached, the ordinary courts at Supplier's registered seat shall be competent.
- 19.4. Supplier shall also be entitled to take legal action in the competent courts at Customer's place of business or domicile.
- 19.5. Customer declares to accept the place of jurisdiction stipulated herein and expressly waives his right to call upon the courts competent at his registered address.

20. Severability

- 20.1. If any provision of these T&C or of any other contractual agreement is to be found by any competent authority to be void, invalid or unenforceable or if certain matters deem to be not or not sufficiently regulated in these T&C or any other agreement, all remaining provisions shall continue in full force. In this event, these T&C shall be amended in a way to give effect to, or to approximate, or to achieve a result which is as close as legally and economically possible to the result intended by the provision determined to be void, invalid or unenforceable. The same applies to matters which deem to be not or not sufficiently regulated in these T&C or any other agreement.

Rebstein, 8 January 2024

Fulandis International AG