

General Terms and Conditions of think project! GmbH

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Services

think project! GmbH, Zamdorfer Strasse 100, 81677 Munich, Germany (hereinafter "Provider"), operates a project platform on the basis of think project! technology, which is used to provide, against a fee, information and management systems. (See: Special Provisions for think project! for ASP Operation).

Provider provides the customer with enterprise systems on the basis of think project! technology. Services related to the Enterprise System may consist of procurement of think project! licenses, installation of the software think project!, delivery of hardware and other services. (See: Special Provisions for think project! Enterprise System).

Within the existing technical and administrative possibilities, Provider provides, based on an agreement and against a fee, personnel services as well as development services, project planning, implementation, administrative tasks, training, consulting, support and additional services. (See below.)

1 General provisions

1.1 Definitions

Contracting parties and those who offer to enter into an agreement with Provider to use the services offered by Provider shall be referred to as "Customer".

Persons who make actual use of the Provider's services shall be known as "User". The leasing of application programs via the Internet shall be defined as "ASP" (Application Service Providing).

1.2 The following provisions shall govern the provision of services by Provider and their use by entrepreneurs as defined in s. 14 BGB (German Civil Code). It should be noted, in particular, that the services are not offered to consumers. Provider shall establish a business relationship with Customer only on the basis of these general terms and conditions. The general terms and conditions of the customer shall not apply. This shall also apply even if Provider does not expressly contradict such general terms and conditions.

1.3 The scope of services owed shall be determined by the respective agreement.

1.4 In addition to these general contractual provisions, the special provisions regarding personnel services, ASP operation and enterprise system shall also apply if such services are agreed.

1.5 If the terms contained in various documents are contradictory, the provisions shall apply in the following order: Individual provisions, specifications, these general contractual provisions, statutory provisions.

1.6 To such extent as Provider provides additional services in specific cases, such services shall not constitute a claim for future services.

2 Entering into an agreement

Agreements between Provider and Customer shall be entered into by written agreement (order form) or via the Internet. Entering into an agreement via the Internet shall require that Customer shall have registered beforehand and that Provider shall have confirmed such registration. As a rule, Provider accepts the order of Customer by sending a reply by e-mail or by providing the service (clearing). The website of Provider does not contain any binding offers for entering into an agreement. Any state-

ments or declarations are merely invitations for Customer to make an offer (place an order).

3 Special duties and obligations of Customer

In particular, Customer shall:

- 3.2 Pay the agreed price on time. For any debit that is not redeemed or returned, Customer shall reimburse Provider the costs to the extent to which Customer is responsible for triggering such event;
- 3.3 Pay the cost that arises from unauthorized co-use or unauthorized use by other users to such extent as Customer is responsible for such use;
- 3.4 Report to Provider immediately any deficiencies or defects that may disrupt the security or the operation of the services;
- 3.5 Fully exempt Provider from any claims by a third party that are brought against Provider due to unlawful use by Customer or another User and shall compensate Provider for all legal fees and costs as well as damages regardless of the legal grounds.

4 Terms of payment

- 4.1 The use of services of Provider shall be subject to a fee unless stated otherwise in express terms. The pricing for the use of services of Provider is defined in individual agreements.
- 4.2 Monthly fees shall be paid, commencing with the provision of operational services, in advance for the remainder of the month on a pro-rated basis. One-off fees (e.g., hardware deliveries, configuration, installation) shall be payable upon the provision of operational services.
- 4.3 Customer shall be entitled to set-off only if the counter-claim is uncontested or has been determined by declaratory judgment.
- 4.4 Customer's right of retention shall be excluded unless it is based on the same legal relationship as the claim of Provider.

5 Default

- 5.1 If Provider defaults on providing the service owed, liability shall be subject to the provisions under 6 of these general contractual provisions; in all other cases, statutory provisions shall apply. Customer may rescind the agreement set only if Provider fails to meet a reasonable grace period set by Customer, which shall be no less than four weeks.

6 Liability

- 6.1 Provider shall be liable for damages caused by the absence of an agreed quality as well as for damages caused by Provider's wilful or gross negligence.

Provider shall not be liable for damages caused by minor negligence. Provider, however, will provide, in the event of minor negligence involving breaches of substantial contractual obligations, compensation for typical and foreseeable direct damages. Indirect damage does not include (but is not limited to): lost income, interruption of business, loss of programs or data, loss of use, transaction losses, missed opportunities, etc.

- 6.2 No-fault liability of Provider for defects that existed at the time the agreement was entered into (s. 536a BGB [German Civil Code]) shall be excluded.
- 6.3 This shall not affect any liability on the part of Provider for fraudulent concealment of a defect, the liability of providers of telecommunications services to the public for financial losses under s. 44a TKG (Telecommunications Act), as well as liability under the Product Liability Act due to the fraudulent concealment of a defect or injuries to life, limb or body.
- 6.4 The aforementioned liability limitations shall apply accordingly to claims brought against employees of Provider or those contracted by Provider; in particular, they shall apply to claims for damages and compensation.

7 Confidentiality

- 7.1 Provider shall keep confidential all secret information disclosed in connection with the use of the services and shall take the necessary measures to ensure that no unauthorized person can access such confidential information. Provider shall refrain from using such confidential information obtained for own or external purposes or from registering or claiming commercial or other proprietary rights thereto.
- 7.2 Confidential information as defined by this provision shall essentially include all such information as Customer or User communicates to Provider, except
- information that is already publicly known or that becomes publicly known during the term of this agreement through no fault of Provider or persons acting on behalf of Provider;
 - information that is known to Provider at the time the agreement is entered into or that becomes known during the term of this agreement through no breach of this duty of confidentiality or violation of statutory provisions or regulatory requirements.

8 Data protection and privacy

- 8.1 Provider guarantees the integrity of such data in accordance with specific and relevant data protection laws as are added to the project platform or are processed as part of the services agreed upon.
- 8.2 Customer shall agree in express terms that his personal data may be stored, transmitted, deleted or locked by Provider to such extent as this may be necessary in consideration of the legitimate concerns of Customer and the purposes of this agreement. Provider shall collect, process and use personal data of Customer without Customer's consent only to such extent as such measures are necessary for the creation and execution of the agreement as well as for accounting purposes. For further information, please refer to the "Privacy Statement" online.
- 8.3 In particular, Customer shall agree that his personal data (pursuant to 8.2.) may be stored, deleted or locked by a third party on the basis of a data transmission as part of an agreement entered into by Provider for the purposes of order data processing.
- 8.4 Accordingly, Customer shall agree that Provider may transfer the entire accounting and invoicing tasks to a third-party company; 8.3 shall apply accordingly.
- 8.5 If Customer processes personal data as part of such a contractual relationship (e.g., data of other users), he, too, shall be bound by the provisions on data protection. Provider shall process such data only to such extent as directed by Customer (s. 11, para. 3 BDSG, German

Federal Data Protection Act). Customer shall remain "in charge of these data" and shall have exclusive rights in relation to Provider.

9 Deletion of data by Provider

Provider shall be entitled to delete project data from project think! after 30 business days following the termination of the agreement and prior notice to Customer. Prior to the deletion of data, Provider shall allow Customer to demand the surrender of the data Customer has placed on the system, to be handed over on a suitable data medium against payment.

10 Term of the agreement

In the absence of any individual agreement with Customer to the contrary, the agreed term of the agreement shall be extended by an additional month each time unless the agreement has been terminated in writing by one of the parties with a notice period of one month at the end of the term of the agreement and/or of the extended term.

11 Early termination of the agreement

- 11.1 Termination on substantial grounds shall be unaffected by the provisions under 10. In the event of substantial grounds, Provider shall be entitled to terminate the agreement without notice and demand lump-sum damages which shall be due immediately. Damages shall amount to a quarter of the remaining monthly fee to be paid until the end of the regular term of the agreement. Damages shall be higher or lower if Provider demonstrates greater, and Customer smaller, damages.
- 11.2 A substantial ground in connection with termination without notice by Provider shall be any substantial or sustainable violation by Customer of his duties.

12 Infringement of proprietary rights

- 12.1 Customer undertakes to maintain, unchanged, the proprietary notices contained in the Enterprise System, such as copyright notices and other legal notices.
- 12.2 Provider will defend Customer against all claims that arise from an infringement of an industrial proprietary right or copyright caused by the archive system in the Federal Republic of Germany. think project! shall assume all costs imposed on Customer as well as any amounts of damages, provided that Customer notifies Provider of such claims in writing immediately and provided that all defence measures and composition proceedings are reserved for Provider.
- 12.3 If claims have been brought against Customer under 12.2 or are expected, Provider may modify the system to an extent that is reasonable for Customer or replace it. If this or the assertion of a license right is not possible without unreasonable expenditure, either party to the agreement may terminate the license for the program in question without notice. In such event, Provider shall be liable to Customer for the damage he has incurred as a result pursuant to Section 11.

13 Other provisions

- 13.1 Customer shall transfer rights and duties under this agreement to a third party only with the prior and written consent of Provider. Section 354a HGB (German Commercial Code) shall remain intact.

- 13.2 The legal relationship of the parties hereto shall be subject to German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- 13.3 Jurisdiction over disputes arising from or in connection with the use of the services of Provider and/or these General Terms and Conditions of Agreement shall lie exclusively with the Regional Court Munich I, provided that Customer is an entrepreneur or does not have a fixed address in Germany, has moved his residence or usual domicile abroad following the entry into effect of this agreement or if his residence or usual domicile is unknown at the time a claim is brought.
- 13.4 The place of performance and payment shall be the respective place of business of Provider, currently Munich.
- 13.5 The ineffectiveness or unenforceability of individual provisions of this agreement shall not affect the effectiveness of the remainder of this agreement. The contracting parties shall agree, in such event, on a retroactive provision that comes as close as possible in spirit and purpose to such ineffective provision.
- partial acceptance. Defects that do not create a right to refuse acceptance shall be rectified by Provider as part of its warranty.
- 13.6 Provider shall not be liable for specific performance results in respect of consulting and training services.
- 13.7 If the contents of training and the contents of training documentation prepared by Provider for the purposes of such training contradict each other, the contents of training shall prevail in cases of doubt. In the event of doubt as to the accuracy of the contents of training documentation, Customer shall contact Provider for clarification.
- 13.8 Additional services in excess of conducting the workshop (e.g., provision of hardware and/or software, rent for classroom facilities) shall be subject to a separate agreement.
- 13.9 Workshop registrations or registrations for other professional development events may be cancelled with a full money-back guarantee up to four (4) weeks prior to the start of the workshop. In the event of a cancellation up to two (2) weeks prior to the start of the workshop, Provider will charge a cancellation fee of 20% of the workshop fee. Cancellation closer to the actual date shall be subject to a cancellation fee of 50%. Customer shall be free to demonstrate a higher amount of expense savings on the part of Provider. Cancellation fees will be credited in full to future workshops if the new registration occurs within six (6) months of the cancellation. In the event that Provider cancels the workshop, the full workshop fees shall be reimbursed.

Special Terms and Conditions regarding Personnel Services

- 1 Provider provides personnel services on the basis of these Special Provisions for Personnel Services.
- 2 As for training, the employees of Customer shall be instructed in the use of the agreed products and applications by Provider; this may take the form of standard training or individual training. The details of personnel services can be derived from the service specifications.
- 3 Provider shall reserve property and proprietary rights of use with respect to all bidding documentation, cost estimates, system concepts, documentation supplied, etc. as well as with respect to underlying technologies, know-how and registered trademarks. Any reproduction or permitting a third party use thereof shall be prohibited.
- 4 Provider shall reserve the right to replace, at any time, one employee with another employee who has the necessary qualifications. Provider may also hire freelancers and employees of other companies for the purposes of fulfilling the contract.
- 5 The following provisions shall apply if one or several works are to be produced as part of personnel services:
 - 5.1 Individual works that can be used separately of each other shall be accepted separately and independently of each other.
 - 5.2 If the contract requires, among other things, the creation of a concept or specifications, then such concept or specifications shall be subject to separate acceptance.
 - 5.3 If Provider has fully performed the services/partial services incumbent upon it, Provider shall submit the performance report to Customer for acceptance/partial acceptance. Customer shall examine such result within twelve (12) business days in full and shall communicate to Provider his written acceptance/partial acceptance or his written report of apparent defects or defects identified. In the event of no written communication by the customer within the acceptance period, the performance result shall be deemed accepted/partially accepted.
 - 5.4 Defects that reduce the usefulness of the performance result only to a minor degree, or insubstantial defects, shall not give rise to a refusal of acceptance/