

## **S1 General Terms/Applicability**

**1.1** Our terms and conditions of sale shall apply exclusively; we do not accept conflicting terms and conditions or Customer's terms and conditions that differ from ours unless we approve their application expressly in writing. Our terms and conditions shall also apply when we render delivery to the Customer fully aware of conflicting terms and conditions or those which differ from our sales and delivery terms and conditions without reservation.

**1.2** All arrangements made between us (the Company) and the Customer for the purpose of implementing an agreement shall be stipulated in a written agreement (Contract).

**1.3** Our terms and conditions of sale shall be applicable only to the Customer and not to third-party consumers within the meaning of the Austrian Consumer Protection Act (Konsumentenschutzgesetz).

**1.4** Our terms and conditions shall also apply to repeat orders.

**1.5** Data protection aspects are cited in our data protection declaration, which can be accessed in the current version at any time at <https://www.an.io/datenschutzerklaerung>.

## **S2 Offer and Conclusion of Contract**

**2.1** Our offers are subject to confirmation, unless otherwise specified in the order confirmation.

**2.2** The contract shall be considered as binding insofar as we confirm in written the receipt of an assignment or order or, in case of lack of such a receipt of an assignment or order, if we fulfil the order by our delivery.

## **S3 Programs and Developments**

**3.1** The elaboration of individual organization concepts and training, the systems analysis and programming occurs in kind and extent from the contracting partner entirely to provided, binding information, documents and aid. Practical test data as well as test possibilities also belong to it in sufficient scale which the contracting partner places at disposal on time, in the standard time and on his expenses. If the buyer has already been working in real time in an operating system that is being made available for testing, the responsibility for securing the real data lies with the buyer.

**3.2** Individual programs and training will be developed on the basis of written specifications of services which the customer will either make available to ANIO Solutions GmbH or which ANIO Solutions GmbH will prepare against compensation on the basis of the documents and information made available by the customer. The contractual partner undertakes to check any specification drawn up by ANIO Solutions GmbH to ensure that it is correct and complete. If within two weeks at ANIO Solutions GmbH no objection of this performance description is carried out by the contracting partner, the description is considered as approved. Requests for modifications which are made thereafter can result in separate deadline and price agreements.

**3.3** For individually created software or program adaptations, it is required that each program be accepted by the buyer at the latest two weeks after delivery by the seller. This approval has to be confirmed in a protocol by the client to examination on correctness and completeness on the basis of the performance specifications by means of the provided practical data and afterwards be confirmed. Should the buyer allow two weeks to pass without accepting the program, the delivered software shall be deemed to have been accepted as at the last day of the stated time period.

**3.4** When standard programs have been ordered, the buyer confirms due to the order his knowledge of the scope of performance of the ordered program. In addition, the contracting partner is obliged to get the appropriate knowledge about the scope of service before order.

## **S4 Prices/Terms of Payment**

**4.1** All prices are quoted in Euro and, unless otherwise specified, delivery of hardware will be "ex works" excluding packaging, insurance, customs and VAT.

**4.2** Unless not otherwise provided in the confirmation of order, the net sales price (without deduction) will be due for payment in full within 14 days net of the date of invoice. In case of default in payment on the part of the Customer, we shall be entitled to request default interest of 8% above the base published interest rate. The Customer is entitled to provide evidence that, as a consequence of the delay in payment, no loss was incurred or that the damages are considerably lower.

**4.3** Bills of exchange or cheques will only be accepted on account of performance.

**4.4** We reserve the right to perform outstanding orders only against pre-payment or cash on delivery.

**4.5** The Customer may only withhold or offset due payments against his/her own counterclaims if these are declared legally valid, are uncontested or recognized by us. The Customer may exercise the right to withhold or refuse payment only if a counterclaim meets the same conditions.

**4.6** Agreed service prices shall be valid for a period of 12 months, after which an adjustment shall be made in accordance with Statistics Austria's consumer price index, based on the order date.

## **S5 Delivery/Delivery Times**

**5.1** Delivery deadlines or delivery periods shall only be binding if expressly agreed in writing. In cases where subsequent amendment or supplementary stipulations to the Contract are made, a new delivery deadline will be agreed upon. The delivery period shall be deemed adhered to if the goods are ready for dispatch or collected by the agreed date.

**5.2** Fulfilment of our delivery conditions shall be met by the punctual and proper fulfilment of the Customer's obligations, in particular, the terms of payment. We reserve the right to raise objection to non-fulfilment of the Contract.

**5.3** Should the Customer be in default of acceptance or infringe on other obligations to cooperate, we shall be entitled to demand compensation to the extent of the loss or damage we have incurred, including any additional expenses. We reserve the right to assert additional claims.

**5.4** If the requirements of article 5.3 become applicable, the risk of accidental destruction and the accidental deterioration of the goods shall pass to the customer on the date of default on acceptance or payment.

**5.5** If failure to deliver by the agreed date is due to force majeure, e.g. mobilization, war, riot or similar events such as strikes or lockouts, the delivery period shall be extended automatically by the length of the delay caused by the event, insofar as it can be proven that these obstacles have a significant effect on completion or delivery. This shall also apply if such circumstances affect our suppliers.

**5.6** Partial deliveries shall be permitted to an acceptable extent.

**5.7** We shall be liable for delays in delivery in accordance with the statutory provisions if the respective contract of sale specifies fixed date delivery as defined by Article § 919 ABGB.

**5.8** We shall also be liable in accordance with statutory provisions if the delay in delivery is caused by an intentional or grossly negligent breach of contract for which we are responsible. We shall also be held responsible for a fault on the part of our representatives or vicarious agents.

**5.9** If the delay in delivery has been caused merely by a simple fault and no mandatory liability has been assumed for injury to life, body or health, our liability for loss or damage caused by delays shall be limited as follows: for each completed week of delay, the Customer may demand 0.5 % of the price for the part of the delivery that could not be put into useful operation due to the delay, but not more than 5 % in total. This does not entail a change in the burden of proof to the detriment of the Customer. The Customer's statutory right to rescind the contract shall remain unaffected.

## **S6 Defects**

We shall be liable for defects as follows:

**6.1** Any parts or services where a defect becomes apparent within the limitation period shall be repaired, replaced or provided again free of charge irrespective of the hours of operation that have elapsed, provided that the reason for the defect already existed at the time when the risk was transferred.

**6.2** Claims based on defects shall be subject to a limitation period of 12 months. The limitation period comes into effect at the time the risk is transferred (Article 6.1). Should the Supplier offer an extended period of warranty, this shall be applicable.

**6.3** The Customer shall notify us of defects in writing without due delay.

**6.4** In case of notification of a defect, the Customer may withhold payments to a reasonable extent and commensurate with the defect which has occurred. The Customer may withhold payments only if notification of the defect is justified beyond any doubt. Unjustified notifications of defect shall entitle us to reimbursement from the Customer of any expenses incurred.

**6.5** We shall always be given the opportunity to first provide supplementary performance within a reasonable period of time.

**6.6** Should supplementary performance be unsuccessful, the Customer may rescind the Contract or reduce the price without prejudice to any claims for damages. The Customer may only request replacement for fruitless expenditure, if we are responsible for the defect due to intent or gross negligence.

**6.7** There shall be no claims based on defect in case of insignificant deviations from the agreed quality, of only minor impairment of usability, of natural wear and tear or damage arising after the transfer of risk as a result of incorrect or negligent handling, excessive use, unsuitable production materials or as a result of external influences not provided for under the Contract, as well as from non-reproducible software errors. Claims based on defects attributable to improper modifications or repair work undertaken by the Customer or third parties and the consequences thereof shall likewise be excluded.

**6.8** The Customer shall have no claim with respect to expenses incurred in the course of supplementary performance, in particular travel, transport, labour and material costs to the extent that expenses are increased because the item of delivery has been moved to a location other than the Customer's establishment, unless the move complies with the proper intended use.

**6.9** The Customer's statutory rights of recourse against us are limited to cases where the Customer has not concluded an agreement with his/her customers exceeding the scope of the statutory provisions governing claims for defects. Article 8 shall apply to claims for damages. Claims exceeding the claims based on defect provided for in this paragraph shall be excluded.

## **S7 Overall Liability**

**7.1** Any claims for damages the Customer may have – without regard for the legal nature of the claim asserted – shall be excluded.

**7.2** Excluded are:

- a) Damages due to violation of essential contractual duty (cardinal obligations). In case of slight negligence, however, liability for indemnification shall be limited to foreseeable, typically occurring damage.
- b) Injury to life, body or health, where we are responsible for breach of duty.
- c) For other damages based on intentional or grossly negligent breach of duty, where the breach of duty on the part of our legal representatives or vicarious agents is of equal status to any breaches of duty on our part.
- d) Claims for damages due to impossibility or inability.

**7.3** The above provisions do not imply a change in the burden of proof to the detriment of the Customer.

**7.4** Liability under the product liability law shall remain unaffected.

**7.5** In so far as liability for compensation against us is excluded or restricted, this shall also apply with regard to the personal liability for compensations of our salaried employees, representatives and vicarious agents.

## **S8 Reservation of Ownership**

**8.1** We reserve the right of ownership to all goods delivered (reserved goods) until such time as all payments due to us by the Customer under the business relationship have been made in full. If the value of all security interest due to us against the Customer exceeds the amount of all secured claims by more than 20%, then, upon request of the Customer, we shall release a corresponding part of the security interest.

**8.2** As long as ownership is reserved, the Customer shall neither pledge the goods nor assign them by way of security. Resale shall be permitted in the ordinary course of business and only on condition that the Customer receives payment from his/her own respective customers or stipulates that ownership shall not pass to his/her own respective customers until all our payment claims have been settled.

**8.3** In the event of confiscation, seizure or other disposal or intervention by third parties, the Customer shall notify us immediately to allow us to take legal action pursuant to Article § 37 EO. In so far as the third party is not in a position to reimburse us for the judicial and non-judicial costs of legal action pursuant to Article § 35 EO, the Customer shall be liable for the costs of any loss we have sustained.

**8.4** If the Customer is in breach of his/her obligations, especially delays in payment, we shall be entitled to rescind the contract and to recover the goods. The Customer is obliged to return the goods. Recovery of goods and/or assertion of the reservation of ownership shall not require us to rescind the contract. Such action or confiscation of the reserved goods by us shall not be deemed as a rescission of contract, unless we have expressly stated this to be the case.

**8.5** We accept resale of reserved goods on condition that the Customer resells the purchased goods in the ordinary course of business. In such cases, all claims corresponding to the total invoiced amount (including VAT) due from the resale against customers or third parties, regardless

of whether the purchased goods have been resold unprocessed or after processing, shall be assigned to us by the Customer. Even after assignment, the Customer shall remain authorized to collect this claim although obliged to make cession of such a claim recognizable by corresponding entries in his or her books. This shall not affect our right to collect the claim ourselves. We undertake not to collect the claim as long as the Customer meets all obligations to pay from the proceeds received, does not default on payments and, in particular, no petition to institute insolvency proceedings has been filed and the Customer has not ceased to make payments. Should this be the case, we may require the Customer to disclose the assigned claims and the names of the debtors to us, to provide all the information needed for collection, to hand over the pertinent records, and to inform the debtors (third parties) of the assignment.

**8.6** In case the purchased goods are processed with other goods, which are not our property, we shall be entitled to a pro-rata co-ownership of the new product to be determined by the ratio of the value of the purchased goods (total invoiced amount including eventual VAT) to the value of the new products at the time of processing. In all other respects, the product created through processing shall be subject to the same provisions that apply to purchased goods delivered with reservation of ownership.

**8.7** If the purchased goods are inseparably mixed with other goods, which are not our property, we shall acquire a share of property in the new product in the same ratio as the value of the purchased goods (total invoiced amount including VAT) to the value of the other mixed products at the time of mixing. If the mixture occurs in such a manner that the Customer's items are regarded as the main items, the Customer shall transfer pro-rata co-ownership to us and retain the sole ownership or co-ownership generated in this way for us.

## **S9 Place of fulfilment, jurisdiction, applicable law**

**9.1** The place of fulfilment for both parties for all rights and duties arising from deliveries and services shall be the main office of our company.

**9.2** The competent court in Vienna shall be agreed upon as having exclusive jurisdiction for disputes arising out of this Contract or any transactions concluded on the base of this Contract.

**9.3** The contractual relationship shall be subject to the laws of the Republic of Austria. The UN Convention on the International Sale of Goods (CISG) shall have no application.

**9.4** The data provided by the Customer shall, to the extent permissible, be stored and processed electronically in our computer system.

**9.5** Should individual provisions of these terms and conditions become invalid, the validity of the remaining terms will not be affected.

**9.6** Should any part of a clause become invalid, this shall not affect the validity of the remaining part of the clause, if it can be separated in terms of its content, is comprehensible in itself and if it constitutes a remaining meaningful clause in the overall context of the general terms and conditions of sale.

## **S10 Industrial property rights / Copyrights**

**10.1** The contracting partner guarantees that he has all originator and/or other rights at his disposal over the provided works for the execution of the contractual service by ANIO Solutions GmbH and ANIO Solutions GmbH intervenes therefore in no foreign copyrights and / or other rights.

**10.2** The contracting partner may use the results of produced contractual services after payment exclusively for own purposes, whereas the use of the results for the enterprise in which the contracting partner is involved considerably a separate written agreement between the contracting partner and ANIO Solutions GmbH is needed. Incidentally all rights of use remain for any type of utilization at ANIO Solutions GmbH.

**10.3** The contracting partner is not entitled, without written agreement of ANIO Solutions GmbH the passing on of organization elaboration, training drafts and training documents, programs, or program drafts, offers, performance descriptions etc. or derivatives thereof, copies to third parties, either against payment or free of charge. Specific programs and organization services represent exclusively intellectual property of ANIO Solutions GmbH. Independently of it, the contractual partner has the right to use the products, even after payment for them, only for his own purposes and only to the hardware called in the contract completed in each case. Every nevertheless taken place passing on in which legal form whatsoever, this includes any short-term lending for the purpose of making copies, draws claims for damages, where the contract partner is always entitled to, also in case of slight negligence, full satisfaction.

**10.4** In the case of contracted Software, the contract partner is granted the non-transferable and non-exclusive right to use the sold software, in compliance with the contractual specification at the agreed installation site. This right is limited with provided hardware exclusively to the use of this hardware, with independent software, exclusively to in the contract by type, number and installation place defined hardware. The licensor shall retain all other rights. Without the written consent of the licensor the contracting partner is particularly not entitled without prejudice of the regulations §40 (d) UrhG to copy the software, to change, to give access to third persons or to use on another than the contract-concrete hardware. With use of software products on a network a licence is required for every concurrent user. For the usage of software products on a Stand-Alone system a license for every PC is required. To the extent that the intended use should include the simultaneous use on more than one workstation, this will require an explicit agreement. The use of software on not contract-concrete hardware may only be carried out on the basis of a separate, written and payable agreement.

**10.5** For any third party software-products delivered by Quorum Consulting to the contract partner the standard license terms of such third parties shall be applicable prior to paragraph 11.4.

**10.6** If the industrial property rights or any copyrights of third persons („protection rights“) are infringed by the service provision of ANIO Solutions GmbH and / or by the contractual use of the deliveries by the contracting partner after the Austrian legal system and should justified claims be made against the contracting partner by third parties in breach of industrial property rights, ANIO Solutions GmbH will support the contracting partner with the defence of such claims.

**10.7** ANIO Solutions GmbH will change or replace the performance in a way that no protection rights are infringed, or provide the contracting partner with the right for use of the services concerned in compliance with the contract. If ANIO Solutions GmbH is not able to ensure this at a reasonable expense, ANIO Solutions GmbH will inform the contracting partner of this; then the contacting partner has the right within four weeks from the notification to withdraw from the respective services or partial performances which injures the protective rights. As entitled for the purposes of this paragraph valid claims if they have approved by ANIO Solutions GmbH or have been awarded in a legally concluded procedure.

**10.8** ANIO Solutions GmbH shall only be liable if the contracting partner (a) gives ANIO Solutions GmbH prompt written notice of any alleged or threatened claims, (b) allows ANIO Solutions GmbH to control the defence and/or settlement of such claim, (c) in case of a legal proceeding gives ANIO Solutions GmbH a third party notice according to § 21 ZPO (Austrian code of civil procedure).

**10.9** ANIO Solutions GmbH shall not be liable with respect to any claims if (a) ANIO Solutions GmbH did not cause the infringement of intellectual property rights wilfully or negligently,

(b) contractual partner's use of the provided services is other than as permitted under the contract,

(c) the product or licensed software is modified by the contractual partner or any third party after delivery without ANIO Solutions GmbH prior written consent,

(d) the breach of protection rights is due to contractual partner's special design or instructions or

(e) the provided services is combined by contractual partner or its contractors with items not furnished or approved by ANIO Solutions GmbH.

**10.10** The contractual party shall agree that ordered programmes are added to ANIO Solutions GmbH programme library for the general use by the ANIO Solutions GmbH sales organisation. In return, the contractual party's programmes are created significantly more economically and cost-effectively, due to the use of additional experience and documentation, than without recourse to such accessory aids.

## **S11 Data processing**

**11.1** Detailed information in connection with our data processing can be found in our data protection declaration, which can be accessed in the current version at any time at <https://www.an.io/datenschutzerklaerung/>.

## **S12 Confidentiality**

**12.1** The contractual partners shall agree on unconditional and unlimited confidentiality regarding any details of the concluded contracts as well as confidential information concerning technical, business and operational matters (i.e. even after termination of the contracts concluded in each case) vis a vis third parties, unless they are generally known or known to the recipient through a third party without any obligation of confidentiality, or have been demonstrably developed independently by the recipient or are subject to disclosure due to a legally binding official or judicial decision.

**12.2** The companies affiliated with ANIO Solutions GmbH and subcontractors of ANIO Solutions GmbH shall not be considered third parties to the extent that they are subject to a confidentiality obligation corresponding to this provision.

**12.3** Personal data relating to ANIO Solutions GmbH or third parties that were included in the contract between ANIO Solutions GmbH and the contractual partner shall be subject to data secrecy in accordance with § 6 of the Data Protection Act (DSG 2000) and must be protected in particular from access by third parties. In addition, the involved employees or any third parties shall be obliged to corresponding data secrecy.

## **S13 Advertisement**

**13.1** The purchaser shall give its express agreement to be sent advertising material of the ANIO Solutions GmbH by fax or electronic notification (E-Mail), by post or phone without prior request.

## **S14 Services Pools**

**14.1** Per service engagement a minimum value of 4 hours shall be agreed.

**14.2** Not consumed hours of Consulting-Pools expire 18 months after receipt of order.

**14.3** Service engagements requiring travel and expenses a minimum value of 8 hours shall be agreed.

**14.4** Remote support services (GoToMeeting, WebEx, TeamViewer or similar) a minimum value of 2 hours shall be agreed.

**14.5** Phone support a minimum value of 0,5 hours shall be agreed.

**14.6** Cancellation less than 48 hours prior to the engagement shall be charged based on 50% of expected hours, but no charges for travel and living shall apply, except those costs already charged to Quorum (e.g. flight tickets, hotels).

**14.7** Regular business hours are Monday to Friday 7am to 7pm. All other dates as well as weekends and holidays a premium of 100% shall apply.

In case of discrepancy the German version shall prevail.