

# General Terms and Conditions of actIT academy & consulting GmbH for the design and execution of internal company service orders

For reasons of better readability, the simultaneous use of masculine, feminine, and diverse (m/f/d) language forms is avoided. All references to persons apply equally to all genders.

## **§ 1 Subject matter of the contract**

(1) actIT academy & consulting GmbH (hereinafter referred to as "actIT academy & consulting GmbH") provides services for the client within the scope of internal company orders. The specific scope of services, the term, and the remuneration are specified in the respective contract (hereinafter referred to as "contract") concluded between actIT academy & consulting GmbH and the client.

(2) If the contract or a framework agreement concluded between the contracting parties contains provisions that deviate from these General Terms and Conditions, the provisions of the respective contract or framework agreement shall take precedence.

(3) Changes or additions to the scope of services require the written consent of both parties.

(4) These GTC apply exclusively. Any terms and conditions of the client that conflict with or deviate from these GTC shall not be recognized unless actIT academy & consulting GmbH has expressly agreed to their validity in writing.

(5) These GTC shall also apply if actIT academy & consulting GmbH performs the service without reservation in the knowledge of conflicting or deviating terms and conditions.

(6) These GTC shall also apply to all future contracts with the client, unless expressly agreed otherwise.

## **§ 2 Provision of services, documents, and copyrights**

(1) actIT academy & consulting GmbH shall provide the consultants specified in the contract. If a consultant is unable to attend an agreed appointment for reasons for which actIT academy & consulting GmbH is not responsible (e.g., illness, force majeure), actIT academy & consulting GmbH shall be entitled to appoint an equally qualified replacement consultant or to reschedule the appointment in consultation with the client.

(2) Unless otherwise agreed, actIT academy & consulting GmbH shall provide the client with the documents required for the performance of the agreed services in a suitable form.

(3) All documents, content, presentations, training materials, and other media (hereinafter referred to as "documents") provided by actIT academy & consulting GmbH are protected by copyright. All rights, in particular translation, reprinting, reproduction, distribution, and editing rights, remain the property of actIT academy & consulting GmbH.

(4) The client and its employees shall receive a simple, non-transferable right of use to the documents provided, limited to the duration and purpose of the respective contract. Any use beyond the purpose of the contract is prohibited.

(5) Without the express written consent of actIT academy & consulting GmbH, it is prohibited to:

- to reproduce, distribute, publish, or make publicly available,
- modify or otherwise edit,
- store permanently, in particular in databases, or
- pass them on to third parties or use them for other events.

(6) The client is obliged to ensure that unauthorized disclosure or reproduction of the documents by its employees or third parties does not occur. The production of additional copies or the use of the documents in further projects or events requires the prior written consent of actIT academy & consulting GmbH.

### **§ 3 Remuneration, payment terms**

(1) actIT academy & consulting GmbH shall receive the remuneration specified in the respective contract for the performance of the agreed services. In addition, proven travel, expenses, and other outlays shall be reimbursed in accordance with the contractual agreements.

(2) All remuneration is subject to the applicable statutory value added tax.

(3) Unless otherwise agreed, all remuneration and reimbursements for travel, expenses, and other costs are due immediately upon invoicing without deduction. Invoices may also be sent in electronic form.

(4) The client shall be in default at the latest 14 days after the invoice date, unless a different payment term has been agreed. actIT academy & consulting GmbH shall be entitled to charge default interest at a rate of nine (9) percentage points above the respective base interest rate (§ 288 (2) BGB). The right to assert further claims for damages caused by default remains reserved.

(5) actIT academy & consulting GmbH may invoice partial services separately if they can be used independently or if the contract provides for this.

### **§ 4 Obligations of the client to cooperate**

(1) The client shall designate an authorized contact person for each order who is authorized to submit and accept all declarations necessary for the preparation and performance of the services and who acts as the central contact person for actIT academy & consulting GmbH.

(2) If the services are performed on the client's premises, the client shall provide the necessary workspaces and technical infrastructure (including hardware and software, network connection, and other equipment) at its own expense. The infrastructure must be operational, compliant with security requirements, and suitable for the performance of the services.

(3) The client undertakes to provide actIT academy & consulting GmbH with all information, documents, and access necessary for the preparation and performance of the service in a timely manner, in full, and in a suitable form.

(4) If the client fails to provide the necessary cooperation or delays in doing so, the agreed deadlines shall be extended accordingly. actIT academy & consulting GmbH may invoice the additional expenses incurred as a result separately. Liability for delays or performance disruptions due to insufficient cooperation is excluded.

### **§5 Provision of software**

(1) Unless otherwise agreed in the contract, the client shall provide the necessary system environment and the required number of software licenses for use free of charge by its own employees as well as by the consultants and system administrators employed by actIT academy & consulting GmbH.

The client warrants that it is entitled to temporarily transfer the licenses for the use specified in this contract.

(2) The client guarantees that the transfer of the licenses does not infringe any third-party property rights. It indemnifies actIT academy & consulting GmbH against all third-party claims asserted against actIT academy & consulting GmbH due to unauthorized use of the transferred licenses.

The client undertakes to ensure that the agreed scope of use of the licenses is maintained throughout the entire term of the contract.

(3) actIT academy & consulting GmbH undertakes to use the licenses provided by the client exclusively for the preparation, implementation, and follow-up of the agreed services and for advising the client's employees.

Upon completion of the services, actIT academy & consulting GmbH shall completely uninstall the software provided and shall not use it for any purpose other than that specified in the contract.

(4) Insofar as information, documents, or data of the client (hereinafter "data") are used within the scope of the order, the client is obligated to maintain proper data backup. This must enable to restore the data in machine-readable form with reasonable effort.

actIT academy & consulting GmbH shall not be liable for data loss if this is due to the client's failure to back up data or insufficient data backup.

### **§ 6 Liability**

(1) Claims for damages by the client or its employees shall only exist in cases of intent or gross negligence on the part of actIT academy & consulting GmbH or its vicarious agents.

(2) In cases of simple negligence, the liability of actIT academy & consulting GmbH is limited to the foreseeable, typically occurring damage.

This does not apply to damage resulting from injury to life, limb, or health, or from the breach of obligations whose fulfillment is essential for the proper execution of the contract and on whose fulfillment the client may regularly rely (so-called cardinal obligations).

(3) The objection of contributory negligence on the part of the client or its employees remains unaffected.

(4) All claims for damages or reimbursement of futile expenses shall become time-barred, to the extent permitted by law, within one year of knowledge of the damage and the party responsible for it. This shall not apply in cases of intent or damage to life, limb, or health.

The right to extraordinary termination for good cause remains unaffected.

(5) Further claims by the client based on breaches of duty that are not covered by paragraphs (1) – (2) are excluded. This exclusion does not apply in cases of intent, gross negligence, or damage to life, limb, or health.

(6) Insofar as the liability of actIT academy & consulting GmbH is excluded or limited, this also applies to the personal liability of employees, workers, representatives, and other vicarious agents.

#### **§ 7 Withdrawal, postponements, and termination in the event of insolvency**

(1) The client may withdraw from the contract by written declaration.

(2) If the client postpones a date less than six weeks before the start of the service, 25% of the agreed remuneration shall be due. If the withdrawal occurs less than three weeks before the start of the service, 100% of the agreed remuneration shall be due.

(3) In the event of withdrawal, the client shall reimburse actIT academy & consulting GmbH for any verifiable expenses actually incurred up to the time of withdrawal, insofar as their provision corresponds to the purpose of the contract and the client has been informed of the commencement of the preparatory services.

This also includes additional costs incurred by actIT academy & consulting GmbH as a result of the withdrawal.

(4) Requests by the client to reschedule service dates will be taken into account provided they are communicated to actIT academy & consulting GmbH in writing at least three weeks before the agreed date.

(5) actIT academy & consulting GmbH is entitled to terminate the contract without notice if an application for the opening of insolvency proceedings has been filed against the client's assets.

#### **§ 8 Confidentiality, Fiduciary Duties, and Data Protection**

(1) actIT academy & consulting GmbH undertakes to treat all information about the client's trade and business secrets that becomes known to it in the course of fulfilling the contract as confidential and to use it exclusively for the contractually agreed purposes.

At the client's separate request, actIT academy & consulting GmbH shall oblige its employees to maintain confidentiality in writing.

(2) Both contracting parties undertake to maintain unrestricted loyalty. In particular, the contracting parties are prohibited from directly or indirectly poaching, hiring, or otherwise employing or allowing to be employed any employees or former employees of the other contracting party who were active within the scope of or in connection with the execution of this contract for a period of eighteen months after termination of this contract. Any action that is likely to adversely affect the existing employment or contractual relationship of such an employee shall be deemed to be unlawful poaching. Any deviations from this shall require the prior, express, and written consent of the other contracting party. If a contracting party violates this obligation, it shall pay a contractual penalty of 1.5 times the respective order volume concerned, but at least EUR 20,000, to the other contracting party. The assertion of damages exceeding the contractual penalty remains unaffected.

(3) The contracting parties undertake to comply with all legal provisions on data protection, in particular the General Data Protection Regulation (GDPR). They shall ensure that their employees also observe and comply with these obligations.

#### **§ 9 Default of acceptance, force majeure**

(1) If the client is in default of acceptance of a service owed by actIT academy & consulting GmbH or delays a cooperation obligation incumbent upon it, actIT academy & consulting GmbH shall be entitled to temporarily refuse the service owed.

In this case, actIT academy & consulting GmbH shall retain its claim to remuneration, less any expenses saved as a result of the delay in acceptance.

(2) Events of force majeure that make it difficult or impossible for actIT academy & consulting GmbH to perform the service entitle actIT academy & consulting GmbH to postpone its obligations for the duration of the hindrance and for a reasonable start-up period after the hindrance has ceased.

Force majeure includes, among other things, strikes, lockouts, or similar unforeseeable circumstances that directly or indirectly affect actIT academy & consulting GmbH, provided that actIT academy & consulting GmbH is not responsible for these circumstances.

#### **§ 10 Out-of-court dispute resolution**

(1) The European Commission provides an online dispute resolution platform at [https://consumer-redress.ec.europa.eu/index\\_en](https://consumer-redress.ec.europa.eu/index_en)

. Consumers can use this platform to settle disputes out of court and obtain further information on dispute resolution.

(2) actIT academy & consulting GmbH is neither obliged nor willing to participate in dispute resolution proceedings before a consumer arbitration board in the event of a dispute with the client.

## § 11 Final provisions

(1) Written form:

There are no verbal side agreements to these General Terms and Conditions. Amendments or additions must be made in writing to be effective. Any waiver of the written form requirement must also be made in writing to be effective.

(2) Applicable law:

The contractual relationship shall be governed exclusively by the laws of the Federal Republic of Germany.

(3) Place of jurisdiction:

The exclusive place of jurisdiction for all disputes arising from or in connection with the contract is Ludwigshafen am Rhein. However, actIT academy & consulting GmbH is also entitled to sue the client at its place of business.

(4) Severability clause:

Should individual provisions of these General Terms and Conditions be or become invalid, the validity of the remaining provisions shall remain unaffected.