

General contractual terms for consultancy, training work and programming activities by valantic Supply Chain Excellence AG - hereafter referred to as valantic SCE (As of 15.02.2019)

§ 1 Scope

1. The following terms apply to the client and valantic SCE for all orders for consultancy, training and programming activities as well as similar services if nothing further has been agreed upon in writing. Agreements that deviate from these terms, in particular the client's terms and conditions are only applicable if valantic SCE has expressly agreed to them in writing.
2. The terms are only applicable to natural or legal persons or partnerships having legal capacity with whom a business relationship exists, who practice a commercial or independent commercial activity and are therefore businesspeople as defined by Section 14 of the German Civil Code (BGB).

§ 2 Subject

The subject is the activity agreed in the service contract, which is carried out according to the principles of proper execution of work by qualified valantic SCE employees within the agreed time period. valantic SCE is free to choose the employees that will carry out the service.

§ 3 Scope of services

The remit, approach and type of services to be provided are stipulated in the service contract. Changes, additions or extensions to the remit, approach and type of results require specific written agreement (change request). valantic SCE is free to select the location where the services are performed.

§ 4 Change request

Additional requirements or changes to existing requirements during the term of the project that are not included in the description of services are to be treated as a legally separate process (change request). Change requests are made on the basis of a description of the modified or new scope of services in a simplified procedure by agreement by both contracting parties. These changes have no influence on the payment of services stipulated in the previously agreed service contract.

§ 5 Special obligations on valantic SCE

valantic SCE is obliged to handle information on the client's operational and business secrets in confidence and on request by the client's employees to sign a corresponding confidentiality agreement. When valantic SCE works with the client's IT systems the industry standard security guidelines are to be used.

§ 6 Client's duty to cooperate

1. The client supports valantic SCE in the activities required to provide the service. In particular the client will provide all the requirements in his area of work that are essential for carrying out the remit properly free of charge. These requirements include that the client
 - will provide the valantic SCE employees with all information required to carry out their tasks. Even where there is doubt the client will provide all information;
 - will provide access at all times to all the information that valantic SCE employees require for their work and will provide all the essential documentation;
 - will appoint a contact person who is available to the valantic SCE employees during the agreed period of work. The contact person is authorized to provide declarations that are required as intermediate decisions to continue the contract;
 - will provide adequate work space for the valantic SCE employees and all the resources that they require for their work. The work space must include the provision of a permanent network, ISDN or DSL connection and the availability of the Internet;
 - will ensure the availability of employees that have a good understanding of current processes and have the competence to take decisions on and implement new processes, in particular for the scope of project work;
 - will provide the required systems and administration in line with the valantic SCE hardware and software requirements;
 - will provide the technical and organizational conditions to remotely connect test and production systems on which the valantic SCE systems are installed, and to the ERP system to which the valantic SCE systems are linked. These can be used by valantic SCE or companies who are instructed by them.
 - will cooperate with the solution features to the extent stipulated by valantic SCE;
 - will adhere to the project milestones agreed in the project plan.

2. The full copyrights with all authorizations of all the programs, documents, methods, work results, concepts and other items produced by valantic SCE (hereafter referred to as services in Numbers 2 and 3) are assigned exclusively to valantic SCE, even if and to the extent to which these results have been produced with the cooperation and specifications of the client. The authorization for use by the client is only for the client's own purposes, even after payment has been made. The client is given a non-transferable, non-exclusive right to use the services.
3. Other agreements on transferring the program and the right to use the services must be in written form. All infringements of valantic SCE's intellectual property rights will be subject to claims for damages.

§ 7 Guarantee

1. valantic SCE's service is considered to be complete when the documents (e.g. instructions, specifications and schedule etc.) produced as agreed are handed over and the special consulting services (workshops, training sessions, presentations, software installations etc.) are completed. For programmed software, this applies upon its handover.
2. The client must inform valantic SCE of defects in writing and request that they are resolved.
3. valantic SCE does not guarantee that the specific consultancy results will occur in the client's organizational processes.
4. The client and valantic SCE agree that it is not possible to develop software that is completely free of errors in all applications. valantic SCE guarantees that the software will not contain errors that could remove or substantially reduce the value or usefulness of the use stated in the contract. valantic SCE guarantees that, at the time it is delivered, the software provided for use is free of the rights of third parties that would remove or reduce the use required by the contract.
5. valantic SCE is obliged to remove errors that occur as per Number 4 as long as they are communicated in writing without delay for the period of 12 months. The period starts with delivery. In addition, any guarantee obligation on the part of valantic SCE lapses if the client or third parties modify the software supplied or parts thereof without the agreement of valantic SCE.
6. valantic SCE is obliged to remove errors in the software supplied that have been reported by the client as per Number 4, within a period of three weeks from receipt of the error report and to complete this in an appropriate period of time. How the errors are to be removed is decided by valantic SCE and, depending on the importance of the error, may take place either by supplying an improved version of the software, making changes to the software or advice on solving or avoiding the effects of the error insofar as possible adverse effects are minor.

§ 8 Liability

1. valantic SCE excludes liability for slightly negligent infringements of obligations as long as these do not relate to key contractual obligations, damages from injury to life, limb or health or guarantees, or relate to claims arising from the German Product Liability Act.
2. If valantic SCE is liable as per Number 1 for the infringement of a key contractual obligation, the liability is limited to the damage that valantic SCE could reasonably expect in the circumstances known at the time the contract was signed.
3. The liability restriction as per Number 2 also applies to damage caused by gross negligence or deliberate acts by employees of valantic SCE or those instructed by them, who are not directors or senior managers.
4. In cases of Numbers 2 and 3, valantic SCE is not liable for indirect damage, consequential harm resulting from a defect, or lost profit.
5. With regard to the operational effect on the client, the typical expected damage will not under any circumstances exceed a total of €100,000.
6. The liability restrictions as per Numbers 1 to 5 apply as appropriate to, and even benefit, the employees of valantic SCE and those instructed by them.
7. Claims for damages by the client resulting from a defect lapse one year after the service has been provided. This does not apply if valantic SCE is accused of bad faith.

§ 9 Acts of God

Acts of God that make the services by valantic SCE more difficult or impossible enable valantic SCE to delay fulfilling their obligations for the

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duration of the hindrance and appropriate start-up period. Strikes, lock-outs, and similar circumstances, as long as they are unpredictable, serious and through no fault of one's own, are equal to acts of God. valantic SCE will inform the client without delay if such an event occurs.

§ 10 Contractual term and termination

1. The contract ceases at the end of the agreed term.
2. However either party may terminate the contract in writing in advance with a notice period of two weeks. This also applies if no specific term is specified in the contract.
3. If the client exercises his right to terminate the contract in line with Number 2, valantic SCE's remuneration will be as follows:
 - 3.1 For a contract with no fixed term, the services provided up to the date when the normal termination comes into effect are to be paid for in line with the agreed rates.
 - 3.2 For contracts with a stipulated term where ordinary termination occurs, the services provided until termination are to be paid for at the agreed rates. For services that are no longer to be provided after the termination, a charge of 20% of the outstanding remuneration will be made unless valantic SCE can provide specific evidence of higher damage.

§ 11 Engagement of employees of the contractual partner

1. The client and associated companies and valantic SCE (the contractual partner) will not engage employees or former employees of the respective other contractual partner that are or have been active in connection with the execution of the tasks specified in the contract before a period of 12 months after completion of the collaboration – neither as an employee nor as a freelancer, directly or indirectly.
2. If one of the contractual partners engages employees or former employees of the other contractual partner as an employee or freelancer, directly or indirectly anyway, then he will pay the respective other contractual partner 50% of the gross payments and benefits that the engaged employee has received in the last 12 months of his or her engagement at the respective other contractual partner.

§ 12 Payment terms

There are two options for paying for the services that are clearly defined in valantic SCE service contracts:

1. For remuneration of expenses as incurred: valantic SCE will invoice its services on the basis of the number of project days provided (8 hours/day). The consulting charges are invoiced monthly as incurred, if nothing further has been agreed.
2. For fixed-price remuneration of expenses: The scope of services defined in the contract is provided by valantic SCE at the fixed price stipulated in the contract, no matter the number of consulting days required.

The service agreement controls the extent to which ancillary charges are included in the fixed price.

§ 13 Subsidiary costs

1. Traveling times

Travel times are charged per hour in proportion to 50% of the consultant's daily rate.

2. Daily expenses and back office charges

Daily expenses are charged at €50 for work in Germany and €70 for work in other countries. This sum includes an allowance for back office costs.

3. Traveling expenses

Journeys with rental cars, planes, trains or taxis are charged as incurred. Car journeys are charged at €0.60/km. The choice of airline, booking class and travel method is decided by valantic SCE. Traveling expenses are invoiced on the basis of the actual place of departure and arrival of the employee concerned.

4. Overnight expenses

Overnight expenses (including breakfast) are charged as incurred or in line with the top tax rates. valantic SCE is free to choose the type of hotel and category.

5. Other expenses

Other traveling expenses are charged as incurred.

6. Weekend and holiday supplements

For activities on Saturdays, an additional 50% surcharge will be charged (100% on Sundays and public holidays).

7. Subsidiary costs for non-chargeable days

If individual days are provided without charge, Numbers 2, 3, 4 and 5 still apply. For flat-rate subsidiary costs the daily rate applicable in Section 12 is used as the basis for invoicing.

§ 14 Validity

valantic SCE is authorized to change and increase the charge for follow-on projects and subsequent years. Any change to the remuneration charges must be notified in writing at least 3 months before it comes into force. The remuneration increases by a maximum of 5% per year.

§ 15 Due date

All invoices are due immediately without deduction.

§ 16 Value Added Tax

Remuneration, subsidiary costs and all other invoiced sums (e.g. traveling expenses, other expenses etc.) are stated in net terms. The statutory applicable value added tax must be paid.

§ 17 Final provisions

1. The law of the Federal Republic of Germany applies exclusively. The provisions of UN purchasing law (CISG) are not applicable.
2. If individual provisions in the General Contract Terms are or become invalid in part or in full this does not affect the validity of the other provisions. The parties are obliged to replace the provisions that are invalid in full or in part with regulations whose economic result comes as close as possible to the invalid ones.
3. Changes and additions to the contract must be in written form and must be expressly marked as such.
4. If the client is a businessman, the court of jurisdiction for both parties is the one responsible for the valantic SCE headquarters. In this case, valantic SCE is also entitled to start proceedings at the location of the client's branch or headquarters.