

General Terms and Conditions for Independent Contractors of m3 management consulting GmbH (as of: July 2012)

1 Scope of Application

1.1 Business consultancy projects of m3 management consulting GmbH

The following terms and conditions shall apply for any orders regarding business consultancy projects awarded to contractors by m3 management consulting GmbH. The orders may refer to m3 management consulting GmbH's own internal projects or to projects rendered by m3 management consulting GmbH for third parties, including, but not limited to strategy, management, organizational, process, system and application consulting and/or organisation of training and seminars, creation of individual, self-contained programmes or programme parts, planning, implementing and further development and/or maintenance of programme systems, programmes and partial programmes and any other organisational and data processing projects.

1.2 Contractor

Contractor has above-average experience in business consultancy and knows the branch in which m3 management consulting GmbH operates. The qualification and experiences stated by Contractor to m3 management consulting GmbH are decisive for selecting Contractor and charging Contractor with an individual order.

1.3 Commissioning of Contractor

Commissioning by m3 management consulting GmbH of Contractor to perform specific works or services shall be exclusively based on these terms and conditions. The parties have made no other agreements and in particular, the general terms and conditions of Contractor shall not apply.

Commissioning is effected by entering into a project agreement. It shall include a project description, the work or service to be provided by Contractor and, if applicable, any results and other issues decisive for the specific individual order, such as deadlines and compensation.

Contractor shall not have any entitlement to being awarded any order and m3 management consulting GmbH shall not be obliged to accept any works or services offered.

1.4 Offers

m3 management consulting GmbH shall be bound by its offers for 30 calendar days unless otherwise provided in the respective offer. Only written orders shall be binding on m3 management consulting GmbH.

2 Legal relationship between the parties

2.1 Independent Contractor

Contractor is legally and economically independent. Contractor shall act for m3 management consulting GmbH in Contractor's own name and for Contractor's

own account. Contractor shall not be authorized to bind m3 management consulting GmbH by contract.

2.2 Independent responsibility

Contractor shall provide the contractually owed performance independently and as Contractor sees fit, but where applicable in coordination with other persons involved in the project.

2.3 Technical instructions

Technical and practical instructions may only be given to Contractor if necessary due to the nature of the project and its requirements.

3 Performance

3.1 General provisions

Contractor is a specialist in Contractor's technical area and thus obliged to perform the orders agreed on with m3 management consulting GmbH carefully, in a timely manner and according to the state of the art at the time the order is awarded and to comply with any included requirements / specifications. Contractor shall observe the applicable legal and authority regulations and stipulations and the respective operational rules and provisions of m3 management consulting GmbH.

Regarding Contractor's own customers and potential costumers, Contractor shall always consider m3 management consulting GmbH's high level of quality and reputation. Contractor shall comply with the respective requirements of m3 management consulting GmbH.

3.2 End customer agreement

The end customer agreement shall apply either in part or in essence as to the extent of its technical and legal importance for determining Contractor's performance. If the end customer agreement does not exist at the time the project agreement is made, it shall be included subsequently.

3.3 Place of performance

Contractor shall generally be able to choose the place of performance. Structure and organisation of the project may require that Contractor performs the work or services on-site at m3 management consulting GmbH or its end customers. In this case, Contractor shall observe any provisions such as house rules.

3.4 Working time

Contractor is generally free to distribute Contractor's working time in Contractor's own discretion. In performing the order however, Contractor shall coordinate Contractor's working times to comply with deadlines and the contractual completion of the project.

3.5 Quality assurance

Contractor shall use all reasonable efforts to ensure that m3 management consulting GmbH will be able to fulfil its obligations to its end customers using works or services of Contractor. In particular, Contractor shall be obliged to:

- a) disclose immediately to m3 management consulting GmbH all information relevant for the contractual relationship between m3 management consulting GmbH and the end customer that becomes known to Contractor during the project;
- b) support and facilitate cooperation of the parties involved in the project and to participate in project committees if desired by m3 management consulting GmbH; and
- c) observe all dates and deadlines determined, including those set for m3 management consulting GmbH by the end customer.

3.6 Contact person

m3 management consulting GmbH and Contractor – if Contractor is a company – shall indicate a contact person each for the other contractual party. This contact person is the responsible person for any and all issues in connection with the project agreement. m3 management consulting GmbH may make declarations with effect on Contractor to this contact person.

3.7 Assignment, subcontracting

Contractor shall not without the previous express consent of m3 management consulting GmbH assign the rights and obligations under the project agreement to any third parties or use any third party for performing works or services.

3.8 Information on the current state of performance

On request of m3 management consulting GmbH, Contractor shall inform it on the status of Contractor's work, the progress of project performance and compliance with the specifications and requirements to be met by the programmes to be created. For this purpose, m3 management consulting GmbH shall be entitled to inspect the documents and records arising in connection with the individual order performed by Contractor. m3 management consulting GmbH may at any time require Contractor to submit status reports. m3 management consulting GmbH shall also have the right to demand that Contractor wholly or partially hand over such documents. Furthermore, m3 management consulting GmbH may have its rights to information and inspection exercised by a third party named by it.

3.9 Surrender

Upon acceptance, but no later than upon complete performance of the individual contract, Contractor shall surrender any and all programmes (including source programmes), documentation, records, documents, electronic data and files and any other aids and tools that were created in connection with the implementation of a project agreement or that Contractor received in this connection, including any and all copies, to m3 management consulting GmbH or a third party named by it and, if and as far as title in them has not yet passed to m3 management consulting GmbH or the third party indicated, transfer the title. Contractor shall not have any right of retention.

4 Contractor's obligation to notify and verify

4.1 Performance specifications

Before implementing the project, Contractor shall check the performance specifications the order is based on for any gaps or ambiguities and for any implementation mistakes and problems that can be identified by Contractor.

If Contractor recognizes that the performance specifications of the project agreement are not sufficient, unclear or wrong, or if performance cannot be provided in the way described in the project agreement or cannot be implemented with the result described in the project agreement, Contractor shall inform m3 management consulting GmbH of this and any consequences identifiable for Contractor.

4.2 Dates, deadlines

As soon as Contractor realizes that Contractor will be unable to comply with the agreed dates or deadlines for performance, Contractor shall inform m3 management consulting GmbH of this immediately in writing.

4.3 Consequences of non-compliance

If the abovementioned circumstances and information are/is not indicated immediately, Contractor shall be liable for any performance defaults and/or delays resulting from this.

5 Data backup and documentation obligations

Contractor represents that Contractor shall always ensure data backup at the current state of the art. Contractor shall be obliged to secure and backup the state of the project performed at Contractor's site at least once per working day and/or ensure respective project backups at m3 management consulting GmbH's or the end customer's site.

6 Cooperation obligations

6.1 Information

m3 management consulting GmbH shall provide Contractor with any information and documents available to it that Contractor requires for performing Contractor's tasks.

6.2 Other cooperation obligations

Any other cooperation obligations of m3 management consulting GmbH may be set forth separately in the project agreement.

6.3 Request

Contractor shall request and organise any cooperation services of m3 management consulting GmbH or the end customer in time.

7 Dates and deadlines

7.1 Determination

The parties may agree on binding deadlines and time schedules for the provision of works or services. When these deadlines are exceeded (also in case of individual dates), the statutory consequences of delay shall apply. Sect. 7.2 shall also apply.

If Contractor works on an order of an end customer or a separable part of it, m3 management consulting GmbH shall have the right to pass on any deadlines set by the end customer for provision of performance to Contractor.

7.2 Non-compliance

In case of non-compliance with a deadline for a reason that is the fault of Contractor, liquidated damages at the rate of 0.1% for each working day of the delay shall be payable, up to 5% of the agreed fixed price. In case of time-based compensation, the liquidated damages for each working day shall amount to the compensation agreed on for one working day (8 working hours) up to 20 working days.

8 Compensation

8.1 Agreement

Contractor's compensation shall be determined in the project agreement. Unless otherwise agreed in the project agreement, the following shall also apply:

8.2 Value-added tax

Compensation shall always be paid plus statutory VAT.

8.3 Fixed price

a) Due date

If a fixed price is agreed on in the project agreement, compensation shall be payable upon acceptance or when acceptance is not possible due to the nature of the work or the contract's subject matter, upon completion of the contract's subject matter and invoicing. If the performance owed by Contractor is not a work, acceptance or completion shall be replaced by complete fulfilment. If fixed prices were determined for partial performance for large projects, the above agreement shall also apply accordingly to this partial performance.

b) Retention of security

m3 management consulting GmbH may retain as security for any warranty claims until the end of the warranty period an amount of 10% (ten per cent) of the total amount due if the contract's subject matter is a work.

c) Additional effort

Contractor may only demand that the fixed price be increased due to required additional work if this additional effort is due to the fault of m3 management consulting GmbH.

8.4 Effort

a) Agreement

If compensation according to time (hours / day) is agreed in the project agreement, the hourly / daily rate will be determined in this project agreement.

b) Invoicing

Contractor shall be entitled to invoice the hours incurred in the past calendar month in the following calendar month. Contractor shall be obliged to include a list in Contractor's invoice that shows the number of actually worked hours in the past calendar month for each individual day.

c) Suspension/interruption of the project

Contractor shall neither be entitled to continuous performance provision for the period stated in the respective project agreement, nor to reaching the respective number of hours. If the project work comes to a standstill for a time or is interrupted for reasons not due to the fault of m3 management consulting GmbH, m3 management consulting GmbH shall have the right to release Contractor from providing performance for this period of time. Contractor shall only be entitled to compensation for the performance actually provided.

d) Advance payments

In case of a contract for work, any payments made shall be considered advance payments until acceptance or completion.

8.5 Travel, accommodation and other expenses

Any travel, accommodation and other expenses incurred shall only be reimbursed when agreed in the project agreement.

8.6 Auditing, due date

m3 management consulting GmbH shall audit the invoices, and if m3 management consulting GmbH accepts them, pay them within 30 days of receipt of the invoice. If the payment date is exceeded, the interest rate for delay in payment shall be 5%.

9 Changes and amendments to the scope of performance

9.1 Agreement

Any agreements that cause a change to the content or time frame of or for the performance owed must be made in writing.

9.2 Request for change

m3 management consulting GmbH may request a change of the performance owed (additions / reductions) until completion of the performance by Contractor. This shall not apply if this is not reasonable for Contractor. If any essential contractual terms, in particular regarding prices and deadlines, are affected by this, Contractor shall inform m3 management consulting GmbH of this within 5 working days by means of a written supplementary offer.

If any supplementary offer is not accepted, performance is to be provided according to the original conditions.

10 Rights of use, title

10.1 Granting of rights

Contractor shall grant to m3 management consulting GmbH an exclusive right without limitation as to territory, time and scope to use and exploit all programmes and any other work and development results created by Contractor in connection with an order, and any related documents and documentation, as and when such rights arise. The right to exploit shall in particular include the right to copy, distribute, change, process and redesign. This grant of rights shall be paid for by the agreed-upon compensation.

10.2 Scope

The rights of m3 management consulting GmbH and their exclusivity shall extend to all draft materials and working documents hereto, and in particular to the object and source codes, the latter both in written and electronic form.

10.3 Assignment

m3 management consulting GmbH may assign, wholly, or in part, the right to use and exploit granted hereunder to third parties and may grant a non-exclusive right to use and exploit to third parties.

10.4 Copyright

Unless otherwise agreed, Contractor shall waive any and all moral rights Contractor may have, in particular the right of publication (§ 12 of the German Copyright Law), recognition of authorship (§ 13 sentence

2 of the German Copyright Law) and access to works (§ 25 of the German Copyright Law).

10.5 Acceptance

m3 management consulting GmbH hereby accepts the grant of rights set forth above.

10.6 Title

Contractor shall transfer the title in any and all documents, documentation and other matters relating to the works or services to be provided by Contractor to m3 management consulting GmbH immediately as of the time of their creation or writing, and in their respective processing state. m3 management consulting GmbH hereby accepts this title.

11 Acceptance

If the performance to be provided by Contractor on the basis of an individual offer is a work, the contractual parties agree as follows:

11.1 Handing over for acceptance

Upon completion of the performance to be provided by Contractor for the respective individual order, including any related documents and documentation and demonstration of the contract's subject matter, Contractor shall hand over to m3 management consulting GmbH or a third party named by it, which may in particular be the end customer, the work, including the respective documents and documentation in a form ready for acceptance.

11.2 Acceptance inspection / declaration

Then m3 management consulting GmbH or a third party named by it shall inspect the work for acceptability and declare acceptance when the work is free of any defects.

11.3 Defects, subsequent performance

m3 management consulting GmbH or a third party named by it shall give notice of any defects that become apparent and grant Contractor a reasonable time for subsequent performance. Contractor shall carry out the subsequent performance free of charge. Following completion of subsequent performance, Contractor shall again provide the work for inspection and notify m3 management consulting GmbH. m3 management consulting GmbH shall again perform the acceptance inspection according to section 11.2.

12 Liability for defects in material and title

12.1 Scope of liability

Contractor shall assume liability for any material defects and deficiency in title according to the statutory provisions.

12.2 Freedom from viruses

Furthermore, Contractor guarantees that the work or services to be provided are free of viruses and other harmful routines, programmes and/or components at the time of the passing of the risk.

12.3 Safety functions

If Contractor's performance consists of creating or adapting software, Contractor warrants that the software contains no function that offers a possibility to weaken or switch off any safety functions that were not indicated to m3 management consulting GmbH in writing before acceptance.

In particular, Contractor represents that no unauthorised third parties will be granted access to systems

or data of m3 management consulting GmbH or the end customer without previous written consent using the software or by evading existing safety measures.

12.4 Third party rights

Contractor guarantees that the works or services provided by Contractor are free of any intellectual property rights of any third parties that would exclude or prejudice their use by Contractor or end customer and/or that Contractor has the right to transfer such rights of use.

Contractor shall indemnify m3 management consulting GmbH from and against any and all claims of third parties, including any copyright owner affected, which are asserted against m3 management consulting GmbH due to the use of the work results rendered by Contractor. This claim for indemnification shall also include any and all costs in connection with any legal disputes. If Contractor is not successful in ensuring the contractual use of the works or services in a suitable way, m3 management consulting GmbH may claim compensation for damages and withdraw from the contract.

12.5 Lack of technical knowledge

An essential defect is also present if Contractor does not have the technical knowledge required for performing the individual contract. If this knowledge is lacking on the side of Contractor, m3 management consulting GmbH shall have the right of withdrawal from, or termination with immediate effect of the individual contract.

13 Term, termination of project agreement or individual contract

13.1 Commencement, term, termination

The project agreement / individual contract shall commence with the signing of the contract and run for an indeterminate time. m3 management consulting GmbH may terminate the project agreement with a period of notice of five calendar days.

13.2 Termination for cause with or without notice

The right to termination for just cause with or without notice shall not be affected. A just cause shall in particular be assumed if:

- a) Contractor does – in spite of a warning notice – not provide the work or services in the quality agreed or usual for the industry and the continuation of the contract is thus unacceptable for m3 management consulting GmbH;
- b) Contractor violates Contractor's obligations set forth in sections 10, 14 and 17 of these terms and conditions; or
- c) insolvency proceedings are initiated regarding Contractor's assets or the initiation of insolvency proceedings is refused due to lack of assets;
- d) the contractual relations between m3 management consulting GmbH and the end customer are terminated for any reason or the end customer rejects Contractor for any reason. In this case, Contractor expressly agrees to waive any legal claims arising out of such termination. Any other contractual claims of Contractor, e.g. unpaid compensation claims, shall not be affected by this.

13.3 Compensation

If a fixed rate compensation is agreed in the project agreement, m3 management consulting GmbH shall

pay a percentage of the compensation for the work or services provided when the project agreement is terminated, and in case of time-based compensation, it shall compensate Contractor for the hours incurred until then.

14 Confidentiality, secrecy

14.1 Intended use

Contractor shall use any information, documents, records, programmes, electronic data and files and any other aids and tools in connection with the respective tasks only for the performance of the relevant project agreement.

14.2 Confidentiality

Contractor shall keep any operational and/or business secrets and any internal operational and/or business issues of m3 management consulting GmbH, any affiliated company of m3 management consulting GmbH and the respective end customer entrusted to, made accessible for or otherwise becoming known to Contractor strictly confidential towards any third parties. This shall also apply if the contract is not signed and for the time after the end of the contractual period.

Neither shall Contractor use any information on the respective project disclosed to Contractor directly or indirectly by m3 management consulting GmbH in connection with a project agreement or otherwise, and in particular Contractor shall not disclose it to any third parties.

Third parties shall also include the employees of m3 management consulting GmbH or any affiliated company of m3 management consulting GmbH that are not directly charged with the respective project.

14.3 Unauthorised third parties

Contractor shall ensure that the work or services to be provided are secured in an appropriate way against non-contractual use, copying and disclosing. Furthermore, Contractor shall agree to carefully ensure that the programmes of m3 management consulting GmbH or other work results are not disclosed to any unauthorised third parties.

14.4 Disclosure

Contractor shall not have the right to disclose these terms and conditions and any project agreements between Contractor and m3 management consulting GmbH to any third parties without the previous express consent of m3 management consulting GmbH, and in particular not to customers of m3 management consulting GmbH. Contractor shall also keep this provision confidential. This shall not apply in connection with any obligations of submission and disclosure towards courts or authorities.

14.5 Violation

When this obligation to confidentiality and secrecy is violated, m3 management consulting GmbH shall be entitled to liquidated damages in the amount of €10,000.00 for each violation. The objection of continuation of the offence shall be excluded. The right to assert further claims for damages is reserved.

15 Data privacy

15.1 Data processing

Contractor agrees that Contractor's personal information, if important for the independent contractor relationship and required for its proper implementa-

tion, may be processed and used by m3 management consulting GmbH.

15.2 Personal information

If Contractor is to process or use any personal information in connection with implementing a project agreement, Contractor shall be bound to data secrecy pursuant to § 5 of the German Federal Data Privacy Act.

Personal information includes any individual information on the personal and property situation of a person or several persons. Personal information must not be processed, disclosed, made accessible or used in any other way for any other purpose than the performance of the respective proper tasks. Violation of this prohibition is punishable and to be considered a breach of the independent contractor relationship. The same shall apply accordingly to the data of customers and principals of m3 management consulting GmbH.

Obligation to comply with data secrecy shall also continue after the end of the independent contractor relationship. This obligation shall be part of the contractual provisions for the independent contractor relationship and shall not affect any other provisions of secrecy.

15.3 Inclusion of third parties

Contractor shall ensure that Contractor's employees and any contractors Contractor is permitted to use shall be bound in the same way.

15.4 Compliance

Contractor shall enable m3 management consulting GmbH to get information on compliance with the data privacy laws at all times.

16 Customer protection, competition

16.1 Precedence

If Contractor does not accept any project offered to Contractor by m3 management consulting GmbH stating the name of the end customer, a project agreement is not closed or an offered project is not performed due to any other reasons, Contractor shall undertake for a period of 12 months not to perform the project offered or indicated to Contractor for the actual or potential end customer directly or indirectly through any third parties. The 12 months period is calculated from the point of time at which m3 management consulting GmbH offers or indicates a project to Contractor and names the end customer.

This shall not apply in case the project was already offered or indicated to Contractor by a third party or the end customer directly before it was offered or indicated to Contractor by m3 management consulting GmbH.

16.2 Working for other principals

Contractor is generally permitted to also work for other principals. However, Contractor agrees not to work for the end customer on the same project upon conclusion of the project agreement. Contractor shall not provide any direct or indirect services for such end customers of m3 management consulting GmbH. This shall apply for a period of time of 12 months upon conclusion of the project agreement.

If another principal for the project in which Contractor was involved stands behind the end customer, the customer protection provision set forth above shall also apply in the same scope and with the same limitations regarding this principal.

16.3 Violation

In case of violation of this customer protection clause, m3 management consulting GmbH shall be entitled to liquidated damages in the amount of €25,000.00 for each violation. The objection of continuation of the offence shall be excluded. The right to assert further claims for damages is reserved.

17 Social security

- 17.1 Contractor is solely responsible for fulfilling social security requirements.
- 17.2 If Contractor is an individual, he/she must prove that he/she is not subject to social security contributions by providing a valid certificate from the social insurance carrier. If he/she fails to comply with this requirement he/she shall compensate m3 management consulting GmbH for any damages that arise as a result. m3 management consulting GmbH reserves the right to independently verify the insurance obligation, in particular by way of application proceedings for status clarification pursuant to § 7 a of Volume IV of the German Social Security Code.
- 17.3 If there is an obligation to pay social security or such obligation arises during the contractual relationship, the contractual parties agree that in their internal relationship Contractor shall assume any and all social security payments. For this case, the compensation agreed on under section 8 shall include both the employer and employee contributions to statutory social insurance.
- 17.4 m3 management consulting GmbH shall then have the right to pay the social security contributions and deduct and withhold them from the compensation. If an obligation to pay social security exists or comes to exist, m3 management consulting GmbH shall, deviating from section 13, have the right to terminate the project agreement with immediate effect.

18 Independent contractor relationship

- 18.1 The amount of compensation agreed in the respective project agreement between m3 management consulting GmbH and Contractor is based on the fact that Contractor is an independent businessperson and provides for Contractor's own retirement pension, cases of occupational or vocational disability, sickness, need of long-term care and unemployment. Any taxes on the compensation shall also be assumed by Contractor.
- 18.2 If the independent contractor relationship is at any point of time not recognised in terms of tax, social security or employment law, Contractor shall indemnify m3 management consulting GmbH from and against subsequent payment and payment of any and all employee's contributions for social insurance. If m3 management consulting GmbH makes any payments in this respect, Contractor shall reimburse it for the payments made.
- 18.3 Furthermore, Contractor shall also indemnify m3 management consulting GmbH from and against subsequent payment and payment of any and all

employer's contributions for social insurance. If m3 management consulting GmbH makes any payments in this respect, Contractor shall reimburse it for the payments made.

- 18.4 Furthermore, Contractor shall indemnify m3 management consulting GmbH from and against any and all payments of wage or income taxes, church taxes and solidarity surcharges and any other taxes and charges on the compensation paid or to be paid, and shall reimburse m3 management consulting GmbH for any payments made.
- 18.5 m3 management consulting GmbH shall have the right to declare set-off of its claims to reimbursement – subject to the garnishment limits – against any possible compensation claims of Contractor or to set them off against each other.
- 18.6 Apart from this, the contractual parties shall agree to change the agreement for further cooperation in such case. In particular, the contractual parties agree that the compensation of Contractor for the time following determination of an employment relationship shall be reduced so that m3 management consulting GmbH has no additional financial burden due to the employment relationship.

19 Miscellaneous

- 19.1 Written form
Any changes and amendments must be made in writing to be effective. This shall also apply for any change to this requirement of written form.
- 19.2 Place of performance
Unless otherwise agreed, place of performance shall be the principal's registered seat.
- 19.3 Set-off
Contractor may only set off against undisputed or finally adjudicated claims.
- 19.4 Applicable law, jurisdiction
Any and all relationships between the parties arising out or in connection with this agreement shall be subject to the law of the Federal Republic of Germany. The provisions of the United Nations Convention on Contracts for the International Sale of Goods and other conflicts of law provisions shall be excluded. Place of jurisdiction shall be Munich.
- 19.5 Severability
If one or several provisions of this agreement are or become invalid or void, the validity of the remaining provisions shall not be affected. The parties shall replace the invalid or void provisions with such appropriate valid provision that comes as close as possible to the commercial purpose of the invalid or void provision. The same shall apply accordingly to any gaps in the agreement.
- 19.6 These terms and conditions are a translation of the legally binding German version. In case of deviations or ambiguity, the German version shall prevail.

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