

General Terms and Conditions for the Transfer and Maintenance of Standard and Customer-specific Software of AAC Infotray AG

1. Introduction

These General Terms and Conditions (GTC) form the basis of all contracts concluded between AAC Infotray AG (hereinafter referred to as "Infotray") and the Customer.

The currently valid **Infotray price list**, including hourly rates, forms an **integral part of these GTC**.

2. Object of the contract

The object of the individual contracts concluded is the development, implementation, transfer and/or maintenance of standard and/or Customer-specific software (hereinafter referred to as "software") by Infotray. An integral part of each individual contract is the content of the offer made by Infotray.

The necessary requirements on the part of the Customer for the installation, use and maintenance of the standard and/or Customer-specific software are defined in the offer, the individual contract and the GTC.

3. Customer participation

The Customer must immediately provide Infotray with all the information necessary for the correct provision of its services.

The Customer shall provide a suitable database for software installation, look after the server(s) involved, maintain hardware and database software, ensure optimum and regular data backup as well as protection against third-party access, viruses, etc. and strive for maximum availability and performance of the database. Infotray provides installation instructions and hardware design specifications.

4. Execution

Infotray's work generally takes place on weekdays between 8:00 a.m. and 5:00 p.m. at the Infotray business premises or at the Customer's premises by arrangement. In the latter case, the associated services and

expenses (in particular working and travel time, travel expenses, cash expenses) shall be remunerated separately according to the rates stated in the currently valid Infotray price list.

Infotray is entitled to commission third parties or subcontractors to carry out the work.

5. Software transfer

Upon full payment of the licence fee, the Customer is granted the non-transferable and non-exclusive right to use of software and its documentation provided by Infotray for an unlimited period of time.

Further use of software, in particular use that exceeds the number of users agreed in the offer, requires the prior written consent of Infotray. Such multiple use must be remunerated separately in accordance with the currently valid Infotray price list.

Details about the lawful use of licences can be found separately in the corresponding price list.

The transfer of rights and obligations from the concluded contracts by the Customer, in particular the transfer of rights of use for software or documentation to third parties, requires the prior written consent of Infotray.

The Customer is liable for any damage caused by improper or non-contractual use of software, in particular if software and/or documentation is passed on to third parties.

6. Industrial property rights

Infotray and/or third parties have industrial property rights to software and documentation provided to the Customer - in original or in copy. Insofar as third parties are entitled to copyrights, Infotray has the corresponding rights of use and distribution. The Customer does not acquire any ownership rights or copyrights to the software provided. The Customer is not allowed to remove notices of copyrights or any other right holders on data carriers, documentation or on any other material.

Infotray rejects any claims by third parties of violation of industrial property rights at its own expense and risk. The Customer shall immediately notify Infotray of such claims in writing and shall leave conduct of any action or any settlement, in or out of court, solely up to the decision of the court. Subject to these conditions, Infotray assumes any ensuing costs or payment of damages incurred by the Customer.

If a lawsuit is filed for a violation of industrial property rights or a precautionary measure is requested, Infotray can, at its own expense, either grant this right to the Customer or replace it with another one, which fulfils the essential contractual requirements.

The Customer is not allowed to develop the source programs from the programs provided by Infotray (e.g. reverse compiling or disassembling).

Copies or other reproductions of software and documentation provided is only permitted for the Customer's own use, in particular for backup and archiving purposes. The Customer undertakes to treat all information on software, the methods and procedures used as well as the software documentation confidentially and to take all necessary precautions to prevent unauthorised access of third parties to software and its documentation.

7. Remuneration for development, use and maintenance

The amount and type of remuneration for the services provided by Infotray result from the written offer of Infotray. The currently valid price list of Infotray is used as the basis for calculation. All prices are exclusive of VAT.

The remuneration covers those services that are necessary for the proper fulfilment of the contract.

Unless otherwise agreed, invoices for one-off payments are issued at the time of delivery of the order and its acceptance by the Customer.

For projects with a fixed price offer and a term of several months, partial payments with specific payment dates are agreed in the individual contract.

The invoices are strictly net and payable within 20 days of receipt. After this period has expired, Infotray will notify the Customer of its debt via a written notice. The default interest is 5% per annum.

8. Confidentiality

The contracting parties undertake to keep facts and data which have not yet been published or which are not generally accessible confidential. This obligation shall also be imposed on any third parties commissioned. The confidentiality obligations exist before the contract is concluded and also after the termination of the contract or after the agreed services have been fulfilled. Legal information obligations remain reserved. The Customer's data protection and security regulations must be observed.

Infotray is entitled to disclose the fact and the essential content of the request for proposal or its offer to any third parties to be commissioned.

9. Software troubleshooting

Infotray undertakes to correct reproducible software errors that fall within its area of responsibility. Response times to an error are laid down in a separate maintenance contract under the relevant error category.

Upon request, the Customer shall take part in the search for the cause of the error. This shall be done free of charge. Infotray's area of responsibility does not include, in particular, software errors, which are caused by improper software operation or circumvention of data security measures by the Customer.

Changes to database objects may only be made using software supplied by Infotray. Read accesses of the Customer to the software database objects is permitted. If the Customer itself or a third party makes changes and enhancements to the database objects

used by the operative software without the written consent of Infotray, the software provided can no longer guarantee the consistency and integrity of the data. In such a case, Infotray can discontinue the delivery and installation of new software program releases and is entitled to withhold maintenance services following a warning notice and a grace period of 14 days with no maintenance fees. Efforts for error localisation and troubleshooting of the database objects are not covered by a maintenance contract and will be charged according to the current price list.

10. Dates, delay in performance and non-performance

If software is implemented for the Customer over several months as part of a project, the individual contract will contain a project plan.

The contracting parties are in default upon non-compliance with the deadlines agreed in writing; for other deadlines, after a warning has been issued and after a reasonable extension has been granted.

Compliance with deadlines and dates by Infotray presupposes that the Customer fulfils its obligations to cooperate in good time and in full, in particular by providing the information requested by Infotray. Furthermore, the Customer shall meet its payment obligations on time.

The Customer shall bear the additional costs that Infotray incurs from any rework resulting from incorrect or subsequently corrected information provided by the Customer. In such a case, Infotray will list the additional costs and draft a change request in response.

If the Customer does not meet these requirements, the deadlines and dates for Infotray will be accordingly extended, at least by the period of the delay. Furthermore, in the event of default by one contracting party, the other party is entitled to withdraw from the contract after having given the defaulting contracting party a reasonable grace period along with a corresponding warning.

The dates for the development and implementation of services specified at the time of ordering by Infotray are based on empirical values and a preliminary determination of the scope of work. They are not binding.

11. Warranty

Software supplied by Infotray can be used in accordance with the valid system requirements for the installation. Infotray assumes no liability or guarantee for third-party software. For resolving any interface issues with third-party software, Infotray is only responsible for the correctness of the interface parametrisation tool. The parametrisation and maintenance of the interface is carried out by the Customer.

The Customer is responsible for careful operation, securing the data entered into the software and checking the results output.

The Customer is responsible for the careful operation of software, including the database, in an operating environment that meets the system requirements. Infotray cannot guarantee round-the-clock availability of software supplied by Infotray.

The warranty period for software supplied by Infotray is one year from the start of the collection of operational data using software. The Customer's warranty claim is limited to rework.

12. Liability

Infotray is only liable to pay damages in the event of proven breach of contract and in the event of intent and gross negligence. In the event of simple negligence, Infotray is only liable for personal injury and property damage.

The aforementioned limitations of liability do not apply to claims of the Customer under the Product Liability Act. There is no liability if the defects are due to causes that cannot be influenced (in particular force majeure), improper parametrisation and operation or other reasons for which the Customer is responsible. Liability for property damage as well as for all further consequential or indirect damage such as claims by third parties are excluded insofar as this is legally permissible.

13. Validity of the GTC

These GTC, containing all rights and obligations agreed between the Customer and Infotray are solely binding, regardless of the Customer's own terms and conditions.

Amendments and addenda to individual contracts can only be made in writing. A written agreement can be used to deviate from the GTC in the individual contract. In the event of an objection, the provisions of the additional written agreement take precedence over those of these GTC.

The ineffectiveness of one or more provisions of these GTC or of the contracts concluded between the Customer and Infotray has no influence on the effectiveness of the other contractual provisions. An ineffective provision shall be replaced with an effective one that comes closest to the economic purpose of the original provision.

14. Applicable law and place of jurisdiction

The contracts concluded between the Customer and Infotray are subject to Swiss law. The provisions of the Vienna Sales Convention (United Nations Convention on Contracts for the International Sale of Goods, concluded in Vienna on 11 April 1980) are excluded.

The exclusive place of jurisdiction is Winterthur.

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