

## General Terms and Conditions

Last updated: 15 January 2017

### 1. General Principles and Scope

- 1.1. The following terms and conditions shall apply to all present and future contracts between the client in his capacity as entrepreneur and Justinek Engineering. The relevant version is valid version at the time of the conclusion of the contract.
- 1.2. Deviations from these conditions and, in particular, the terms and conditions of the client shall only apply if they are expressly acknowledged and confirmed by Justinek Engineering.
- 1.3. In the event that individual provisions of these general terms and conditions of business are or become invalid, this shall not affect the effectiveness of the remaining provisions and the contracts concluded under their application. The ineffective is to be replaced by an effective provision, which comes closest to its meaning and economic purpose.

### 2. Quotations, Side Agreements

- 2.1. The quotations of Justinek Engineering are, unless stated otherwise, subject to change with regard to all data, including the fee.
- 2.2. If an order confirmation from Justinek Engineering contains alterations to the order, these shall be deemed to be approved by the client, unless the client objects in writing within 3 days.
- 2.3. Agreements generally require written form. Verbal statements are only binding as long as they are referred to in the order confirmation in written form.

### 3. Order Assignment

- 3.1. The nature and scope of the agreed service result from the contract, authority and these general terms and conditions.
- 3.2. Changes and additions to the order require the written confirmation by Justinek Engineering in order to be subject of the contract.
- 3.3. Justinek Engineering undertakes to carry out the order in accordance with the generally recognized rules of technology and the principles of profitability.
- 3.4. The contractor (Justinek Engineering) is entitled to have all or part of the tasks assigned to him by third parties. The payment of the third party is exclusively made by Justinek Engineering itself. There is no direct contractual relationship between the third party and the client.

### 4. Involvement of the Client

- 4.1. If Justinek Engineering receives a consulting mandate, the client is to ensure that the organizational framework on his part allows the rapid progress of the consulting process (e. g. by permitting Justinek Engineering access to the client's production area).
- 4.2. The client shall ensure that the contractor (Justinek Engineering) is provided with all documents necessary for the fulfillment and execution of the consulting contract without delay and is informed of all the processes and circumstances which are of importance for the execution of the consulting contract. This also applies to all documents, events and circumstances which become known only during the activities of Justinek Engineering.

### 5. Delays

- 5.1. Any production and delivery hindrances not attributable to Justinek Engineering, e.g. force majeure, strikes, operating or delivery disruptions, shortening and stoppage of working hours, transport complications, late provision of information and data as well as official interventions bring about an appropriate extension of the deadlines for the service provision. These circumstances do not entitle the client to withdraw from the contract or to claim damages.
- 5.2. This shall in the same way apply to reasons within the scope of the client which impede the provision of services by Justinek

Engineering, such as operational disruptions, material bottlenecks, shortening and stoppage of working hours.

### 6. Warranty

- 6.1. Justinek Engineering shall perform its services with the due diligence.
- 6.2. Justinek Engineering is entitled and obliged, regardless of actual fault to remedy any inaccuracies and deficiencies in its performance. Justinek Engineering will notify the client without delay.
- 6.3. The client is responsible to provide evidence that a defect exists at the time of delivery. The client is obliged to support Justinek Engineering in the detection and correction of defects and to provide all necessary measures (such as access to its premises, access to documents, etc.). If the client does not comply with his obligation to cooperate despite a written reminder by Justinek Engineering, the assertion of any claims resulting from a defective performance is excluded.
- 6.4. Claims for warranty shall fall under the statute of limitations six months after the actual acceptance of the service by the client.
- 6.5. Claims for redhibitory action and price reduction are excluded. Any claims for improvement or supplement of missing services shall be fulfilled by Justinek Engineering within a reasonable period of time, which shall generally be one third of the deadline agreed upon for performance of the service. A claim for delays, in particular on lost profit, cannot be claimed within this period.
- 6.6. Justinek Engineering only warrants to the extent that it is itself entitled to a sub-supplier.
- 6.7. Reversal of the burden of proof is excluded.

### 7. Compensation for Damages

- 7.1. Justinek Engineering shall be liable for damage due to its own work and that of its vicarious agents only in case of intent and gross negligence. Liability for slight negligence is excluded in any case.
- 7.2. Compensation claims of the client may only be asserted in court within six months from the knowledge of the damage and the injuring party, but at the latest within three years after the event in question.
- 7.3. The client has to prove in each case that the damage is due to a fault of Justinek Engineering.
- 7.4. A possible replacement of damages is equal to the net order value. The sum of all liability of Justinek Engineering is limited by its liability insurance sum.
- 7.5. The liability for production stoppage, loss of profit, loss of usability, contract losses, pure property damage or any other economic or indirect consequential damage, etc., is excluded.
- 7.6. Compensation claims of the client from delays beyond the deadline shall be excluded.

### 8. Protection of Intellectual Property

- 8.1. Copyrights of the works created by Justinek Engineering and third parties (in particular, quotations, reports, analyzes, expert opinions, organizational plans, programs, performance descriptions, calculations, drawings, data carriers etc.) remain with Justinek Engineering. They may be used by the client during and after the termination of the contractual relationship exclusively for purposes covered by the contract. The client is not entitled to reproduce and / or distribute the work (the works) without the express consent of Justinek Engineering. In no event does Justinek Engineering incur liability for any unauthorized duplication or dissemination of the work - in particular for the correctness of the work - against third parties.
- 8.2. The contractor's breach of these provisions entitles Justinek Engineering to immediately terminate the contract. Furthermore, Justinek Engineering is entitled to a penalty equal to twice the

reasonable fee of unauthorized use, whereby the assertion of other legal claims, in particular to omission and / or damages, is reserved. This penalty is not subject to the judicial right of moderation. The burden of proving that the client has not used the documents of Justinek Engineering is the responsibility of the client.

- 8.3. Justinek Engineering is entitled to specify the name of the client (name, business name) in publications and announcements about the project.

## **9. Confidentiality**

- 9.1. Justinek Engineering is committed to the confidentiality of all information provided by the client.
- 9.2. Justinek Engineering is also obligated to keep its planning activities confidential if and as long as the client has a legitimate interest in this confidentiality. After carrying out the order, Justinek Engineering is entitled to publish the work in whole or in part for advertising purposes, unless otherwise agreed in the contract.
- 9.3. Justinek Engineering is entitled to cite the client as a reference for presentations, also via the Internet.

## **10. Cancellation of the Contract**

- 10.1. Rescission from the contract is only permitted for important reasons. An important reason is, in particular,
- if a contracting party violates essential contractual obligations;
  - insolvency of the client;
  - insolvency rejection for lack of assets;
  - client's default of payment.
- 10.2. In the event of delay by Justinek Engineering with a service, the client can only rescind the contract after setting a reasonable deadline. The deadline shall be set by registered letter.
- 10.3. In the event of default by the client in the case of a partial service or an agreed cooperation activity, which makes the execution of the order by Justinek Engineering impossible or significantly impeded, Justinek Engineering is entitled to withdraw from the contract.

## **11. Fee**

- 11.1. Upon completion of the agreed work, Justinek Engineering will receive a fee according to agreement. Justinek Engineering is entitled to place interim billings according to the work progress.
- 11.2. If nothing to the contrary has been agreed, the client will have to compensate for any additional expenses, travel expenses, etc. incurred by Justinek Engineering.
- 11.3. If the execution of the agreed work is not possible due to reasons on the part of the client or due to a justified premature termination of the contractual relationship by Justinek Engineering, Justinek Engineering reserves the right to payment of the entire agreed fee less saved expenses. In the case of the agreement of an hourly fee, the fee for the number of hours expected for the entire agreed work less the expenses saved shall be paid. Expenses saved are agreed at a lump sum of 30 percent of the fee for the services Justinek Engineering has not yet rendered up to the date of termination of the contract.
- 11.4. In the case of unjustified rescission of the client, Justinek Engineering reserves the right to the entire agreed fee. In the event of justified rescission of the client, the latter must honor the services actually rendered by Justinek Engineering up to then.
- 11.5. All fees are in EURO unless stated otherwise.
- 11.6. The applicable value-added tax (VAT) is not included in the fees indicated and is to be paid separately by the client.
- 11.7. Compensation with any counterclaims, for whatever reason, is prohibited.
- 11.8. Unless explicitly agreed otherwise, the payment shall be made without deduction within 30 days of the invoice date. Payments are to be made in EURO into an account of a bank with an Austrian branch named by Justinek Engineering. In the event of delay in payment interest shall be payable at a rate of 9.2% per annum above the base rate of the ECB (European Central Bank) plus reminder charges.

- 11.9. Bank charges are borne by the client.

## **12. Price Changes**

- 12.1. The agreed prices and deadlines are based on the costs and information at the time of the first quotation. Should there be a sustainable change in the requirements during the project, and therefore work that goes beyond the services quoted becomes necessary, Justinek Engineering is entitled
- to extend the duration of the project by mutual agreement with the client;
  - to claim additional fees in accordance with the additional work and expense.

## **13. Electronic Billing**

- 13.1. Justinek Engineering is entitled to submit invoices to the client in electronic form. The client expressly agrees with the sending of invoices in electronic form by Justinek Engineering.

## **14. Place of Performance**

- 14.1. The place of performance for all services is the place of business of Justinek Engineering, unless otherwise stated.

## **15. Legal Choice, Legal Venue**

- 15.1. For contracts between the client and Justinek Engineering exclusively Austrian law applies.
- 15.2. For all disputes arising from this contract, the responsibility of the competent court in Vienna shall be agreed.