

## General Terms and Conditions of BLS AG for service contracts

### 1 Scope of application

- 1.1 These General Terms and Conditions (GTC) govern the conclusion, content, and handling of contracts for services (except for construction services).
- 1.2 Upon submission of the offer, they shall be deemed to have been accepted by the provider.
- 1.3 Any changes or additions must be confirmed in writing by the customer.

### 2 Offer

- 2.1 The offer including demonstration shall be provided free of charge, unless the quotation request states otherwise.
- 2.2 The provider shall submit the offer on the basis of the quotation request. It is free to submit variations too.
- 2.3 The offer is binding for three months following submission.

### 3 Remuneration

- 3.1 The provider shall provide the services at set prices or at cost subject to an upper remuneration limit (cost ceiling). It shall state the cost types and rates in its offer. Increases in the cost ceiling are to be agreed by means of a written addendum between the parties. The provider shall notify the customer that the limit may potentially be exceeded when 2/3 of the cost ceiling has been reached. If it does not meet this obligation, it shall bear the cost of any exceeding of the cost ceiling.
- 3.2 Remuneration applies to all services required for fulfilment of the contract. Remuneration also covers in particular all ancillary costs such as expenses, secretarial services, all social benefits, and other compensation for sickness, disability, and death as well as official charges. Inflation shall only be taken into account following separate written agreement. Value added tax is to be shown separately.
- 3.3 Remuneration is payable in accordance with the payment plan. It is based on progress made in terms of work and expenditure accrued. The provider shall claim it with an invoice when due. Invoices are payable, unless agreed otherwise, within 30 day from the date of the invoice.

### 4 Performance

- 4.1 The provider undertakes to ensure competent and diligent fulfilment of the contract.
- 4.2 Modifications or additions to the contract shall be made in writing.
- 4.3 The provider shall inform the customer on a regular basis of the progress made with work and notify it immediately in writing of any circumstances that may impair fulfilment in accordance with the contract. The customer has a right at any time to inspect and be informed about all parts of the order.
- 4.4 The provider shall always fulfil the order in person and may not commit the customer vis-à-vis third parties.
- 4.5 It shall only use carefully selected and well-trained employees. It shall pay particular heed to the customer's interest in continuity. It shall replace at the customer's request, within a reasonable period of time, employees who do not have the required specialist knowledge or who otherwise impair fulfilment of the contract.

### 5 Property rights

- 5.1 All intellectual property rights arising during fulfilment of the contract (provision of the service) belong to the customer.
- 5.2 The provider undertakes to contest without delay any third-party claims for breach of property rights and to assume all costs including compensation incurred by the customer as a result.
- 5.3 The customer undertakes to inform the provider without delay of such claims and provide it with all documentation that will help contest them unless reasons of secrecy prevent this.

### 6 Maintenance of confidentiality

- 6.1 The contracting parties shall treat as confidential all facts and information that are neither obvious nor generally accessible. If there is any doubt, facts and information are to be treated as confidential. The parties undertake to take all economically reasonable precautions as well as all possible technical and organisational precautions to ensure effective protection against unauthorised parties accessing or gaining knowledge of confidential facts and information.
- 6.2 This duty of confidentiality applies even before the contract is concluded and also after the termination of the contractual relationship.
- 6.3 There is no breach of the duty of secrecy in the case of the customer forwarding confidential information within its own group or to third parties used. This applies to the provider insofar as forwarding is required for fulfilment of the contract or provisions of the contract are forwarded within the group. Group companies are enterprises that the customer directly (subsidiaries) or indirectly (sub-subsidiaries) controls at the time the contract is concluded, with control defined as having more than a 50 per cent share in equity. In addition, BLS Netz AG also counts as a group company.
- 6.4 Without the customer's written consent, the provider may not advertise the fact that a collaboration exists or has existed with the customer and may not cite the customer by way of a reference either.
- 6.5 The parties shall extend the duty of secrecy to their employees, subcontractors, sub-suppliers, and other third parties used.
- 6.6 **If a contracting party breaches the above duty of confidentiality, it shall owe the other a contractual penalty unless it proves it is not at fault. This amounts for each breach to 10 per cent of total remuneration, subject to a maximum of CHF 50,000.00 per case. Payment of the contractual penalty does not mean exemption from the duty of secrecy; the contractual penalty is, however, offset against any compensation.**

### 7 Default

- 7.1 The provider shall automatically be in default in the case of non-compliance with deadlines agreed – for default purposes – in the contract document (transactions based on delivery by a fixed date) or in other cases following a reminder granting a suitable period of grace.
- 7.2 If fulfilment is not forthcoming by the end of the period of grace, the customer may withdraw from the contract and notify the provider in writing. The services provided up to the dissolution of the contract do qualify for remuneration.
- 7.3 **If the provider is in default, it shall owe a contractual penalty in the amount of 1 per mille of remuneration for each day overdue, subject to a maximum of 10 per cent of total remuneration. Payment of the contractual penalty does not exempt the provider from its contractual obligations. In cases of force majeure, no contractual penalty is due.**

### 8 Guarantee

- 8.1 The provider is liable for faithful and diligent performance and guarantees that its services comply with the contractual conditions and specifications as well as the state of the art.
- 8.2 It is liable for any loss or damage caused by its employees in the exercise of their employment.

### 9 Revocation and cancellation

- 9.1 The order may be revoked or cancelled by any contracting party at any time in writing. The services provided up to the dissolution of the contract do qualify for compensation.
- 9.2 Claims for compensation due to dissolution of the contract at an inopportune time remain reserved. Compensation for loss of profit is excluded.

## 10 Assignment and pledging

- 10.1 The provider's claims under the present contract may not be assigned or pledged without the customer's written consent.

## 11 Procedural principles

- 11.1 For services in Switzerland, the provider undertakes to guarantee occupational safety provisions and working conditions at the place of performance as well as the equal treatment of women and men in terms of equal pay. For services abroad, the provider undertakes to comply with the fundamental conventions of the International Labour Organisation (ILO).
- 11.2 BLS Ltd. is under an obligation to report on non-financial matters pursuant to Art. 964a et seq. of the Swiss Code of Obligations (OR). It and its subsidiaries (incl. BLS Netz AG) are subject to the due diligence and reporting obligation regarding minerals and metals from conflict areas and child labour pursuant to Art. 964j et seq. OR. The provider undertakes to provide the information requested by BLS for the fulfilment of these obligations in full and in writing within the set deadline and to comply with these obligations itself, insofar as it is subject to them.
- 11.3 The provider undertakes to extend these requirements to the third parties it commissions.
- 11.4 **If the provider does not comply with the procedural principles, it shall owe a contractual penalty. It amounts to 10 per cent of the contract amount, subject to a minimum of CHF 3,000.00 and a maximum of CHF 100,000.**

## 12 Social insurance

- 12.1 The provider is not in an employment relationship with the customer and is responsible itself for settlement of social insurance contributions due.
- 12.2 The customer does not at any time owe social benefits (old-age and survivors' insurance, invalidity insurance, unemployment insurance, etc.) or other compensation in particular in the case of holidays, accident, sickness, disability, or death.
- 12.3 If the customer is approached subsequently regarding social benefits as per point 12.2 – in particular by a compensation

office – the provider has to indemnify the customer in full. The customer reserves the right at any time to ask the provider for confirmation of the relevant compensation office accordingly.

## 13 Public liability insurance

- 13.1 The supplier shall take out, as a minimum, a liability insurance policy in the amount of CHF 5 million per claim event and per year for physical injury, damage to property, and any resulting financial loss.

## 14 Guaranteeing integrity

- 14.1 The parties undertake to take all necessary measures for the avoidance of corruption so that, in particular, no gratuities or other benefits are offered or accepted.
- 14.2 **In the event of failure to comply with this obligation, the provider has to pay the customer a contractual penalty. This amounts to 10 per cent of the total remuneration per infringement, subject to a minimum of CHF 3,000.00.**
- 14.3 The provider acknowledges that an infringement will generally lead to the cancelling of the surcharge and to an early dissolution of the contract for important reasons by the customer.

## 15 Modifications to the contract, inconsistencies, and partial invalidity

- 15.1 Modifications and additions to the contract, as well as its cancellation, require the written form.
- 15.2 In the event of inconsistencies between provisions, the following order of priority applies: contract document, GTC, quotation request, offer.
- 15.3 If any individual provisions of the contract prove to be invalid or illegal, this shall not affect the validity of the contract. The provision concerned should be replaced in this case with an effective provision that comes as close as possible from an economic perspective.

## 16 Applicable law and place of jurisdiction

- 16.1 Swiss law is the only applicable law.
- 16.2 The exclusive place of jurisdiction is Bern.