

## General Conditions

### 1. Application domain

1.1 The general conditions in accordance with sections 1 to 23 apply to all contract types. In addition, the specific provisions from section 24 on apply to the respective specific contract types.

1.2 The "SIX Code for Suppliers" ([https://www.six-group.com/dam/about/downloads/responsibility/supplier\\_code\\_en.pdf](https://www.six-group.com/dam/about/downloads/responsibility/supplier_code_en.pdf)) form an integral part of these STC Services. Supplier shall be obliged to always act in full compliance with this code.

### 2. Realization

2.1 Supplier shall carry out and comply with Supplier's contractual duties with all due care and competence, and in so doing shall carry out all instructions resp. specifications issued by SIX in relation to the Service and shall abide by the current state of technology, and the legal requirements.

2.2 Supplier shall submit reports to SIX on a regular basis concerning the Services. The SIX has the right to verify the status of the performance of the Contract and to demand information in that regard.

2.3 Supplier shall report promptly to SIX any circumstance or factor that could jeopardize or delay provision of the Services.

### 3. SIX's obligation to cooperate

3.1 SIX shall communicate to Supplier, in good time, any requirements or other data that are relevant for performance of the Contract. Insofar as Supplier considers as necessary, any further provisions concerning SIX's duty to cooperate shall be included in the Contract.

3.2 SIX shall provide any documentation and/or office space that may be necessary for performance of the Contract.

3.3 SIX shall grant Supplier access to the premises of SIX, insofar as is necessary for performance of the Contract.

### 4. Deployment of staff

4.1 For rendering the Services, Supplier shall deploy only carefully selected and appropriately trained staff who should be replaced in case of insufficient expertise or otherwise endanger performance of the Contract.

4.2 Each party shall provide the other party with the names and positions/roles of essential supervisory and/or managerial personnel. Any replacement of such personnel shall be subject to prior written authorization of SIX.

4.3 Supplier shall only deploy staff with the authorizations required for rendering of the Services. Insofar as the deployed staff shall have access to the IT systems of SIX (IT user account), Supplier shall look into and collect extracts from their criminal records, which are not older than 3 months. In addition, Supplier shall inform the involved SIX procurement specialist at an early stage before deployment and in writing about any entries in the respective criminal records and about any pending criminal proceedings of the employees the Supplier is aware of and which appears, in the context of the agreed services, as problematic.

### 5. Engagement of third parties

5.1 Any engagement of third parties (subcontractors) for the fulfillment of the contract shall be subject to prior approval by SIX and shall be without prejudice to Supplier's obligation to assume full responsibility for supplying SIX with the Services in a contractually compliant manner.

5.2 Insofar as the agreed services include a data processing on behalf of SIX, as of May 2018 Supplier shall make sure beforehand that the subcontractor has implemented the required technical and organizational measures and has the necessary know-how in order to be able to fully adhere to the EU General Data Protection Regulation (EU-GDPR). In addition, Supplier shall contractually oblige the subcontractor and any involved employees of the subcontractor to strict confidentiality as well as to fulfill any other obligations arising from the EU-GDPR or any other applicable data protection legislation.

### 6. Change requests

6.1 SIX shall be entitled to submit written Change Requests concerning the Services at any time. Within ten days following receipt of any such Change Request, Supplier shall submit to SIX a written notification indicating whether the requested change is realizable; and any effect such change may have on any future Services, as well as the price and delivery dates thereof. Within ten days following receipt of said notification, SIX shall determine whether or not the Change in question will be implemented. Unless otherwise agreed, Supplier shall continue carrying out its Services according to contract during the period in which any Change Request is being evaluated.

6.2. Any Change Request of the Supplier shall indicate in writing the reasons for said change.

6.3 Any change in any Deliverable, price, delivery date, or contractual provision shall be subject to realization of an amendment to the Contract. Any change in the price of the Services shall be calculated on the basis of the original price.

### 7. Default

7.1 Insofar as Supplier fails to meet any contractual delivery or performance deadline, SIX shall grant Supplier a reasonable grace period. Insofar as Supplier does not deliver the contractually stipulated services until end of grace period, Supplier shall automatically be deemed in default.

7.2 Insofar as Supplier defaults Supplier shall pay SIX a contractual penalty amounting to 0.2 percent of the remuneration under the Contract due per day of default, but not less than CHF 1'000 per day and not more than 20% of the remuneration under the Contract.

7.3 Payment of any such penalty shall be deducted from any damages Supplier is required to pay, but shall not relieve Supplier of any contractual duty whatsoever.

7.4 Insofar as Supplier defaults, SIX shall grant Supplier another reasonable grace period. Insofar as Supplier is still in default after the grace period, SIX shall be entitled to withdraw from the Contract in whole or in part. If the company is so far behind the schedule that an appropriate grace period appears futile, SIX can immediately withdraw from the contract. In the event of withdrawal, the contract shall be rescinded.

### 8. Consequences of termination

On termination of the Contract, Supplier shall return to SIX immediately and without no additional costs all paper and electronic documentation and data related to the Contract and shall retain no copy of such data and/or documentation. Supplier shall also return to SIX all technical equipment received of SIX under the Contract.

### 9. Intellectual property rights

9.1 Any intellectual property rights (intangible property and related rights; "Rights") produced by Supplier pertaining to the services respectively deliverables (together the "Deliverables"), belong to SIX immediately upon payment of the agreed

remuneration. The foregoing shall apply in particular to any documentation or evaluation that is elaborated in printed or machine readable form, and in particular to any source code, programs, analysis, design and/or program documentation, as well as to any data that is stored on any storage medium whatsoever. SIX shall therefore be entitled to use the Deliverables in any manner whatsoever, including for the purpose of modifying, copying, and/or commercializing them as well as assigning them to a third party. Insofar as Supplier has involved a subcontractor when performing the contract and some of the Rights pertaining to the Deliverables have been produced by the subcontractor, Supplier shall be accountable that the subcontractor assigns these rights to SIX. SIX may grant Supplier rights to use the Deliverables produced under the Contract.

9.2 Any pre-existing Rights shall remain in force. Supplier shall inform SIX about pre-existing Rights which are relevant for the use of the Deliverables. With respect to pre-existing Rights appertaining to parts of the Deliverables, SIX shall receive a non-exclusive, transferrable right to use without restrictions in terms of time, space and substance, which grants SIX the possibility to use and dispose of the Deliverables within the meaning of clause 9.1. Supplier undertakes not to establish any Rights based on those pre-existing Rights which might be counter against the possibilities of use granted here. In particular, supplier undertakes to transfer or license these rights only subject to the rights of use of SIX.

9.3 Payment by SIX shall constitute compensation for said Rights.

9.4 Both parties retain the right to use and dispose of ideas, processes and methods that are not legally protected as well as jointly developed know-how.

## 10. Breach of intellectual property rights

10.1 Supplier warrants that performance of the Service resp. Deliverables does not infringe the Rights of any third parties.

10.2 Supplier shall, at its own expenses, risk and without delay, defend against claims by third parties concerning breach of Rights. Should a third party initiate proceedings against Supplier, Supplier shall without delay inform SIX in writing. If the third party asserts claims directly against SIX, SIX shall notify Supplier promptly in writing and Supplier shall, upon first request of SIX and to the extent possible under the relevant code of procedure, participate in the lawsuit. If possible, SIX shall give Supplier sole control over the defense thereof, and of any process related to reaching an out of court settlement of such claim. Supplier shall assume any costs (including compensation for damages) incurred by SIX in connection with any such claim. Clause 15.1 does not apply. To the extent that SIX is responsible for the breach of the Rights, claims against Supplier are excluded.

10.3 If, pursuant to the Rights asserted, SIX is unable to use the contractually owed Deliverables in whole or in part, Supplier has the option of providing SIX with the relevant rights so that the Deliverables can be used as contractually agreed or changing its Deliverables in such a way that they do not breach the Rights of third parties but nonetheless comply with the contractually owed Deliverables. If Supplier fails to change the Deliverables within a reasonable period, SIX may withdraw from the Contract with immediate effect.

## 11. Security regulations

11.1 Insofar as Supplier accesses the premises of SIX and/or any SIX data and information systems, Supplier shall comply with any access or security regulations, provided Supplier has been made aware of these regulations beforehand.

11.2 Supplier shall advise all personnel and third parties involved in performing the Contract to abide by the access and security regulations and shall formally obligate said personnel to abide by this covenant. In particular, all personnel of Supplier who spend time in the premises of SIX and who handle business information and data as well as computer equipment and documentation

shall sign the form "Rules of behavior for external personnel" (to be found on [http://www.six-group.com/dam/about/downloads/terms-conditions/rules\\_external\\_personnel\\_en.pdf](http://www.six-group.com/dam/about/downloads/terms-conditions/rules_external_personnel_en.pdf)). Supplier shall keep the signed forms on file and hand over to SIX on first request.

11.3 Insofar as Supplier accesses the information systems of SIX, SIX shall have the right to monitor, record and evaluate Supplier's activities in the information systems.

## 12. Prices and terms of payment

12.1 Supplier shall provide the Services either at fixed prices or on a cost per service basis subject to a maximum amount.

12.2 SIX assumes 8.4 working hours per working day. However, SIX expects a commitment to work that is in line with professional business standards and if required to work more than 8.4 working hours per day. If Supplier works more or less than 8.4 hours per day and the work is remunerated on a time and material basis, the actual working hours are to be charged. Travel time shall not be regarded as working hours.

12.3 Any statements in timesheets deviating from rules agreed upon in the contract or these STC Services shall only be valid if they have been approved by SIX procurement in writing.

12.4 The prices for the Services shall include the cost of all elements that are necessary in order to perform the Contract, exclusive charges.

12.5 Charges and VAT shall be itemized on all invoices that are issued to SIX.

12.6 SIX shall make payment of any amount owed within thirty (30) days following receipt of the invoice.

## 13. Non-disclosure

13.1 Supplier shall keep confidential all information, documentation and data that are acquired by Supplier in connection with the process of provisioning the contractual Services ("business secrets"), and shall in particular be prohibited from making Confidential Information available or accessible to any third party or otherwise disclosing Confidential Information. The foregoing shall also apply to any information that falls within the scope of banking or financial infrastructure secrets.

13.2 Supplier shall advise all personnel involved in performing the Contract of said personnel's obligation to keep business, banking and financial infrastructure secrets confidential, and shall formally obligate said personnel to abide by this covenant. Supplier shall in particular obligate all such personnel to sign the non-disclosure declaration ("Geheimhaltungserklärung") of SIX, which shall form an integral part of the Contract (non-disclosure declaration to be found on [http://www.six-group.com/dam/about/downloads/terms-conditions/confidentiality\\_statement\\_en.pdf](http://www.six-group.com/dam/about/downloads/terms-conditions/confidentiality_statement_en.pdf)). All such signed documents shall be kept on file by Supplier and handed over to Group on first request.

13.3 The confidentiality obligations predates conclusion of the Contract and persists after termination of the contractual relationship.

13.4 This non-disclosure obligations shall prevail pre-existing obligations of non-disclosure.

13.5 SIX shall have the right to disclose the content of the contract to other SIX Group companies.

## 14. Processing of personal data

14.1 If Supplier processes personal data when performing the Contract, it shall be responsible for compliance with the Swiss Data Protection Law as well as any other applicable data

protection provisions, in particular the EU General Data Protection Regulation.

14.2 SIX shall be entitled to transfer personal data SIX has received from Supplier in connection with the performance of the contract to other SIX Group companies in Switzerland and abroad for further processing.

14.3 Insofar as the agreed services include a data processing on behalf of SIX, the parties shall conclude a data processing agreement.

## 15. Liability

15.1 The parties are liable to each other for any damage, loss or injury caused to the other party by breach of contract unless they are able to prove that no fault can be attributed to them. In all cases, liability shall be limited to any damage, loss or injury effectively incurred and proven. In case of slight negligence the liability shall be capped per year at the double amount of contract value. This limitation shall not apply to clause 10.2.

15.2 The Parties and/or its engaged third parties shall under no circumstances be liable for any damage, loss or injury caused by any force majeure (e.g. war, civil unrest, terrorist attacks, flooding, strikes, forces of nature). If Supplier is prevented from performing the Contract for more than thirty (30) days, SIX shall have the right to withdraw from the Contract.

## 16. Supplier's status as an independent contractor

16.1 In its capacity as an independent contractor (referred to as a *selbständig erwerbstätige Person* in Swiss law), Supplier shall assume sole responsibility for payment of all taxes, social security benefits, and the like that are payable by Supplier, and shall obtain any insurance coverage desired by Supplier in Supplier's own name.

16.2 If Supplier is classified as a non-independent contractor rather than an independent contractor, SIX shall be entitled to indemnification of Supplier to the extent that SIX is required to pay any taxes, social security charges, insurance premiums or the like that are attributable to said classification of Company as a non-independent contractor. SIX shall be entitled to deduct such expenditures from any relevant Supplier invoice.

## 17. Liability insurance

17.1 Supplier shall obtain liability insurance that covers any damages that may be attributable to Supplier or the personnel thereof, whereby the amount of the coverage obtained shall be concomitant with the value of the Services.

17.2 At the behest of SIX, Supplier shall allow SIX to examine Supplier's liability insurance policy.

## 18. Assignment

18.1 Any assignment of the Contract by both parties to any third party shall be subject to prior written authorization of the other party.

18.2 Notwithstanding the foregoing, SIX shall be entitled to assign the Contract to any other SIX of SIX.

## 19. Written form

Changes and amendments to the Contract as well as termination of the Contract shall be in writing.

## 20. Severability

Should any provision of the Contract be or become void, ineffective or unenforceable in full or in part, the validity and enforceability of all of the remaining provisions shall not be affected. The void, ineffective or unenforceable provision shall be regarded as replaced by the effective and enforceable provision that corresponds as closely as possible to the economic objective of the void, ineffective and unenforceable provision. The same shall apply to any gaps in the Contract.

## 21. Use of SIX as a reference

Any use of SIX as a reference shall be subject to SIX's prior written authorization.

## 22. Right to audit

22.1 SIX, its external audit company and its supervisory authorities shall have a comprehensive right to conduct examinations and inspections to verify correct fulfillment of the contract as well as mandatory legal and regulatory requirements.

22.2 Supplier is obliged to assist SIX and its external audit company and supervisory authorities in such examinations with the means at its disposal and to issue all relevant documents upon first request and guarantee access to the relevant employees of the Supplier.

22.3 If Supplier uses related companies or other companies to fulfill its contractual obligations, Supplier shall make this clause 24 contractually binding on these companies, so that SIX, its external audit company and its supervisory authorities can claim this right of examination directly in respect of these companies.

22.4 The costs of such an examination shall be borne by SIX. However, if the examination finds that Supplier is in breach of contractual provisions, Supplier shall bear the costs of the examination in full.

22.5 SIX shall also have the right to inspect Supplier's own audit reports.

## 23. Applicable law; place of jurisdiction

23.1 The Contract shall be governed by Swiss law, to the exclusion of the provisions of the Vienna Convention (United Nations Convention on Contracts for the International Sale of Goods concluded in Vienna on 11 April 1980).

23.2 The exclusive place of jurisdiction for any disputes arising out of or in connection with the Contract shall be Zürich in Switzerland.

## Provisions for Work and Labor Contracts

### 24. Acceptance of the Deliverables

24.1 SIX shall prove the Deliverables in collaboration with Supplier, and shall submit to Supplier a written description of any defect in the Deliverables that is revealed.

24.2 The Deliverables shall be deemed to have been fully accepted insofar as they are conform with the contractual requirements. An acceptance certificate shall be drawn up following acceptance and shall be signed by both parties.

24.3 Any defect that comes to light during the acceptance process shall be classified as follows:

minor defect: a minor defect shall mean any defect that constitutes a minor impediment to use of

the Deliverables in accordance with the contractually defined purpose thereof.

Major defect: a major defect shall mean any defect that constitutes a major impediment to use of the Deliverables in accordance with the contractually defined purpose thereof.

Disabling defect: a disabling defect shall mean any defect that completely precludes use of the Deliverables in accordance with the contractually defined purpose thereof.

24.4 Insofar as any minor or major defect comes to light, SIX shall determine whether or not the Deliverables can be put into operation.

24.5 Insofar as any disabling defect comes to light, the Deliverables shall not be deemed to have been accepted.

24.6 Insofar as Supplier fails to provide the Deliverables in a contractually compliant manner within a reasonable grace period set by SIX, SIX shall be entitled to take any of the following actions in SIX's discretion:

- a) extend the grace period;
- b) deduct the reduced value from Supplier's compensation;
- c) terminate the Contract in whole or in part;
- d) reclaim the applicable documentation and the work that has been done to date, and have any remaining work carried out by SIX a third party at SIX's expense and risk.

24.7 Insofar as the acceptance is twice unsuccessful, a contractual penalty amounting to ten (10) percent of the total price shall be imposed on Supplier, in addition to the rights referred to in clause 24.6.

## 25. Warranty period

25.1 The warranty period shall be two (2) years upon date of acceptance pursuant to clause 26.

25.2 The warranty period for any defect that is rectified shall start again as from the date of said rectification.

25.3 Supplier's warranty obligations shall be waived insofar as SIX makes any changes in the source code, the hardware or any standard interface.

## 26. Documentation

Prior to the acceptance procedure for the Deliverables, Supplier shall provide SIX with fully reproducible and market-compliant documentation of the operational Deliverables, whereby said documentation shall be provided on paper and electronically, and in the languages specified in the Contract and Supplier shall make updates if necessary.

## 27. Notice of defect

27.1 Notice regarding any defect in the Deliverables shall be provided as soon as reasonably possible during the warranty period.

27.2 Notice of any willfully concealed defect may be made within a period of ten (10) years following the date of Acceptance.

## Provisions for Maintenance Contracts

## 28. Scope of services

28.1 Hardware Services shall include maintenance (esp. preventive maintenance for purposes of perpetuation of functionality) and corrective maintenance involving either the repair or replacement of any defective component (eliminating of malfunctions and errors to restore functionality). Any component that is replaced shall become property of SIX upon delivery.

28.2 Software Service shall include the elimination of any malfunction and the correction of any error. The contractual price shall include new functionalities and licenses therefore.

28.3 On request of SIX and subject to an additional charge, the following shall apply:

a) The Service shall also include all software customization that is needed to make the software compatible with any changes in SIX's operating, database and/or data carrier systems.

b) Supplier shall also eliminate malfunctions arising from circumstances that are attributable to SIX or any third party.

28.4 Insofar as Supplier agreed to maintain the hardware and/or support the software, Supplier agrees to perform these Services throughout the entire period during which SIX intend to use these Services. Said period shall amount at least six years.

28.5 Supplier shall provide SIX with information regarding technical optimizations and improvements in the software that are relevant to maintenance processes and outcomes on a regular basis. Supplier shall in particular draw SIX's attention to the consequences of optimized software for the hardware affected. Any implementation of technical optimizations or delivery/installation of any updated/ upgraded software done by Supplier shall be subject to SIX's prior approval.

## 29. Default

29.1 In addition to section 8, the following provisions apply in case of default in the provision of maintenance services:

29.2. Insofar as Supplier fails to meet any contractual on-call time, response time, intervention time, malfunction correction time or delivery deadline, Supplier shall automatically be deemed to have defaulted on Supplier's contractual obligations ("Default").

29.3 If Supplier defaults on a correction of malfunction of the category "critical", Supplier shall due payment of a contractual penalty of CHF 1000.- for each started hour of Default, subject to a per Contract maximum amounting to the total compensation payable over the course of one year. A critical malfunction is a System problem that completely disables the hardware / software or for which no workaround solution is currently available other than reinstalling the previous release or providing a new patch or release. A critical malfunction affects system functionality and availability in a manner that necessitates immediate action. Application of the foregoing shall be excluded insofar as Supplier can prove that said default is not attributable to Supplier.

29.4 Payment of any such penalty shall be deducted from any damages Supplier is required to pay, but shall not relieve Supplier of any contractual duty whatsoever.

29.5 If Supplier defaults on a correction of a malfunction of the category "critical" twice within a month or three times within a year, SIX shall be entitled to terminate the Contract in whole or in part.

## 30. Source Code

Insofar as Supplier is unable to provide any Service for any reason whatsoever, SIX shall be entitled to provision the Service proprietarily or have the Service provisioned by a third party. In any such case, SIX shall be entitled to access the relevant source

code. In the interest of ensuring that the relevant source code issuance obligations are fulfilled, SIX shall be entitled to require at any time during the term of the Contract that the source code be safeguarded either by being deposited with a trustworthy Company, or via realization of the relevant technical measures on a SIX's system of SIX's choosing; and that the source code be kept updated. The cost and expense of all such measures shall be assumed by Supplier.

### **31. Contract term**

31.1 If the Contract is concluded for an indeterminate period of time, it shall be subject to termination by Supplier with 12 months' notice and by SIX with one month's notice, as from the end of any calendar month. SIX shall have the right to terminate the Contract in whole or in part.

31.2 The Contract may be terminated with immediate effect in the event of any material breach of the Contract by either party. In such a case, the remuneration for any Services that have been provided shall be pro rata temporis, subject to the right of either party to bring a claim for damages.

31.3 On termination or expiration of the Contract, Supplier undertakes to promptly return to SIX all paper and electronic documentation and data in relation to the Contract. Supplier shall do so at no charge and shall not retain a copy of such documentation and/or data. Supplier furthermore undertakes to return all technical equipment received.

## **Provisions for purchase contracts**

### **32. Handover and installation**

32.1 The product is deemed delivered when the receiver, assigned by the entity, signs the dispatch note at the place of delivery.

32.2 On request of SIX and against separate payment, Supplier takes care of the installation of the hardware (and the operating software).

### **33. Transfer of Risk**

Use and risk are transferred to SIX at the place and moment of delivery.

### **34. Use of the operating software**

The manner and scope of the use of the operating software inextricably associated with the hardware shall be governed by the intended purpose of the hardware. SIX may sell the hardware (including the operating software) to third parties, provided that SIX renounces its own use thereof.

### **35. Examination and warranty**

35.1 Supplier guarantees that the product features the arranged objective and legal characteristics, in addition to those characteristics which should be taken for granted without further agreements. Supplier furthermore guarantees that the services rendered have all the agreed and assured characteristics as well as the characteristics that SIX may in good faith also expect without any special agreement.

35.2 Supplier assumes a warranty of 24 months from the handover or installation of the hardware (including operating software) or from receipt of the fully rendered, contractually agreed performance.

35.3 During the warranty period, defects may be claimed at any time. Even after expiry of the warranty period, Supplier is required to honour claims arising from the warranty rights of SIX set out below, provided that the defects were brought to Supplier's attention in writing during the warranty period.

35.4 Supplier guarantees that it is in possession of all the rights to render its performance under the contract. In particular, it is entitled to distribute the operating software delivered with the hardware and to grant SIX the rights to use the operating software according to the contractually agreed scope.

35.5 In case of the delivery of a defect product or inadequate performance SIX has the right to request, on discretion of Supplier, (i) a dispensation at no charge or a rectification of defects within an adequate period of time, (ii) a transformation or (iii) a reduction of value.

35.6 SIX controls the product within 30 days after implementation, however, the latest within 6 months after receipt and informs the company about defects within appropriate time.