

1/3 General Terms and Conditions (GTC) of Init7

1. Scope of application and validity

1.1. These General Terms and Conditions (GTC) govern the conclusion, content and fulfillment of all contracts between the Init7 (Switzerland) AG (hereinafter: Init7) on the one hand and its customer (hereinafter: Customer) on the other hand.

1.2. The Init7 Holding AG as well as other companies that are affiliated with it; is not liable for debts on account of titles directed against Init7 by its customer.

1.3. The GTC are not applicable to the free and anonymous Internet access offered by Init7 (e.g. Dialin, WLAN etc.).

1.4. Deviations from the GTC require for their validity an expressly written agreement between the parties.

1.5. These GTC are applicable to all agreements concluded between the parties since Jan. 9, 2012. The GTC apply to contracts concluded before this date as of July 01, 2012, in as far as the customer who is significantly impaired by these GTC, did not terminate his contract within 30 days after notice of these GTC subject to compliance with the hitherto applicable minimum contract period as well as the hitherto applicable notice periods and dates. This extraordinary termination right forfeits 30 days after notice of these GTC.

2. Conclusion and validity of the contract

2.1. The shipment of price lists, unsigned contract documents and the like by Init7 constitutes an invitation to tender that does not have any binding rollover effect for Init7. The invitation to tender is valid for 30 days from the date of issuance, whereby the underlying documents are to be treated with confidentiality and may not be disclosed to third parties without the consent of Init7.

2.2. The amounts entailed in the price lists from Init7 pertain to net prices and exclude the statutory applicable taxes, as well as any transport, packaging, route, dispatch, customs and similar execution costs. Where nothing is indicated the prices will be deemed to be in the Swiss currency.

2.3. A contract comes into effect between the customer and Init7, when the contract documents that have been legally signed by the customer are countersigned by Init7.

2.4. In the event of conflict between different language versions of the contract, the German version shall prevail.

2.5. In the event that any provision of the contract that has been concluded with the customer is ineffective or incomplete or should the fulfillment be impossible, the remaining provisions shall continue to be valid. The relevant provisions are in this case to be replaced by valid effective provisions, whose content comes closest to the original intent and these GTC.

3. Services of Init7

3.1. The nature and scope of the services to be provided by Init7 (hereinafter: Contract services) are regulated in the contract concluded between the parties.

3.2. Init7 or else its business office accepts fault reports during the contractually regulated standby time and takes within the contractually agreed response times, the necessary measures to rectify faults and malfunctions in the contractual services that it provisions.

In as far as not otherwise agreed upon between the parties, the valid standby time shall be Monday to Friday, 09.00 to 17.00 hrs CET (with the exception of general or local public holidays, and the period from December 24 to and including January 2).

4. Performances of the customer

4.1. The customer pays for the remuneration that is owed on account of the use of the contractual services within the notice period pursuant to the provisions under section 7 below.

4.2. The customer will provide Init7 with truthful statements on relevant facts within the framework of contract negotiations, and without being prompted, immediately inform Init7 in an appropriate manner about changes in such facts during the term of the contract.

4.3. The customer is responsible for the legal and contractually conform use of the contractual services provisioned by Init7; which can not be abused especially on account of acts that violate criminal or competition law. Considered as abuse is e.g. also the shipment of unsolicited bulk and/or advertisements (spam).

4.4. The customer is responsible for an adequate and proper maintenance of the installations and equipment required for the use of the contractual services and protects not only these as well as the data that is processed within the framework of the use of the contractual services but also the thereby used programs from unauthorized access by third parties, in particular against viruses, Trojan horses, worms and a like as well as from attacks and any kind of manipulation. The customer in addition securely stores the access data that is required for the use of the contractual services and in particular protects it from unauthorized access.

4.5. The herein entailed provisions under sections 4.1. to 4.4. above, also apply to vicarious agents, institutions and third parties that are retained on the part of the customer.

5. Warranty

5.1. Init7 warrants that the herein contractual services that are owed within the meaning of section 3 above, exhibit not only those features that have been agreed upon, but also those of the current state of the art which the

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customer can presuppose in good faith without the need for a special agreement.

5.2. Init7 strives to ensure a high temporal availability of its contract services as well as an adequate protection of the customers' infrastructure and data from unauthorized access and interference. The warranty for an uninterrupted, troublefree availability as well as the protection of the customers' infrastructure and data from unauthorized access and interference is nevertheless excluded.

5.3. It is the duty of the customer in the case of a fault to accordingly immediately report this to Init7 in an appropriate manner. Init7 shall, within a reasonable period take measures to remedy the fault. The customer is hereby obliged to provide the necessary cooperation; he in particular grants Init7, its organs and vicarious agents, access to the installations and equipment required for the contractual services

- Valid as a fault are all factors which impair and/or render the use of contractual services impossible permanently or temporarily. Interruptions of contractual services that are timely announced by Init7 (in particular due to maintenance work by Init7 and/or third party suppliers) are not valid as faults.
- The customer bears the responsibility to provide proof of a fault.

5.4. The customer then has the right to cancel the contract with Init7, if Init7 on account of the notification has within a reasonable period in accordance to the meaning herein pursuant to section 5.3. above, twice unsuccessfully taken measures to remedy the fault.

5.5. The customer may instead request a refund in order to reduce his remuneration to an amount that equates to the reduced value of the contractual performance, if this right is expressly stipulated in the contract concluded between the parties and the fault has been reported to Init7 within 30 days subsequent to becoming known. Init7 reserves the right to offset justified refund claims against future remuneration claims.

6. Installations and equipment

6.1. In the event that Init7 provisions the customer with installations and equipment for the use of contractual services on a leased or rental basis, these remain the property of Init7. The rationale for rights of lien or retention in favor of third parties is excluded; the customer is obliged in the event of an attachment, retention, or seizure of the installations and equipment, to point out the ownership structure to the relevant agencies and counterparties and to inform Init7.

6.2. Upon termination of the contract concluded between the parties, the customer is obliged to surrender the installations and equipment undamaged to Init7 and within the deadline set by it.

6.3. Exempt from these provisions are the installations and equipment that constitute the subject of a purchase contract concluded between the parties. The installations and equipment remain also in this case the property of Init7, until the purchase price is paid in full.

7. Remuneration

7.1. The remuneration due from the customer (usage-independent and/or usage-dependent) arises from the contract concluded between the parties.

7.2. The customer will be invoiced for independent usage remunerations in advance, either annually or quarterly. In the event of an early termination of the contract concluded between the parties, the remuneration amount that is attributable to a month that has partially started still remains due in full. The remuneration is likewise due in the case of blocked services.

7.3. Usage dependent remunerations will be invoiced on a monthly basis on account of records made by Init7. Init7 provides the customer pursuant to his written request, with records and the basis for the calculations (in German) in as far as this is possible with reasonable effort. If the invoice is found to be applicable, the customer will also be invoiced for the costs associated with compiling the calculation basis based on the current rates.

7.4. The (usage independent and usage dependent) remunerations are due for payment 30 days from the date of the invoice (due date). In the event that the customer has neither paid the invoice up to the due date, nor raised justified objections against it in writing within 10 days from the date of the invoice, he is by all accounts in default. Init7 can in this case to the extent permitted by law, suspend or else block the contractual services, take further measures to mitigate the damage and/or terminate the contract concluded between the parties without compensation. The customer bears all costs incurred on account of the late payment, he in particular owes Init7 a default interest of 8%, a reminder fee of CHF 20 per reminder and in the event of an interruption of contractual services (blocking) a reswitching fee of CHF 50.

7.5. In the event of a justified doubt as to whether these payment conditions can be observed, Init7 is in such a case entitled to demand from the customer a security (deposit) and/or a down payment.

7.6. Banking, postal and further transaction fees will be borne by the customer and these will be subsequently debited in the next invoice.

8. Privacy Policy

8.1. Init7 processes customer data only in so far as this is required in connection with the conclusion and fulfillment of the contract with the customer. It thereby adheres to the provisions of applicable legislation, in particular the Data Protection and Telecommunications Act.

- 8.2. The customer expressly grants his consent that Init7
- will forward his data within the Init7 Group in as far as this is required for purposes designated under section 7.1.,
 - will process his data for domestic marketing activities,
 - will pass on his data to a third party, in as far as this is necessary within the framework of debt collection measures, or in as far as Init7 provisions the contractual services together with the relevant third party,

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- will register his data in public databases (e.g. RIPE, nic.ch) in as far as this is necessary in the context of addressing obligations in accordance with industry standards.

9. Liability

9.1. Init7 and its vicarious agents are liable in the event of provable damage caused by them on account of a violation of the contract concluded between the parties in a willful or grossly negligent manner; in the case of mild or moderate negligence, liability is excluded.

9.2. The liability of Init7 for consequential damages, lost profits or loss of data is excluded. Moreover, liability for property damage and financial loss per damage case is limited to the sum of the month payments performed by the customer under the relevant contract.

9.3. The liability of Init7 for damages incurred by the customer is likewise excluded, in particular in the event of the violation of section 4.3. and 4.4. of these GTC, i.e. as a consequence of an illegal or non-conform use of contractual services by the customer, as well as a lack and/or inadequate maintenance and/or securing of installations, equipment and programs provisioned in connection with the use of contractual services as well as the thereby processed data.

9.4. The customer shall be liable in particular for all damages that Init7 incurs in the event of an illegal or non-conform use of contractual services by the customer in particular the violation of section. 4.3. and 4.4. of these GTC, i.e. as a consequence of an illegal or non-conform use of contractual services by the customer, as well as a lack and/or inadequate maintenance and/or securing of installations, equipment and programs provisioned in connection with the use of contractual services as well as the thereby processed data.

9.5. In the event that Init7 can not or only marginally provision the due contractual services on account of force majeure, the contract will be postponed as long as the existence of the force majeure persists. Valid in particular as force majeure are also power outages, unforeseen regulatory requirements or the occurrence of harmful software. An Init7 liability is excluded in any case of force majeure.

10. Duration and termination of the contract

10.1. The parties agree in particular on the exact time of commencement of the contract, whereby the organizational and technical availabilities of Init7 are taken into account.

10.2. In as far as it is not otherwise expressly specified in this contract, it shall be deemed as concluded for an indefinite period.

10.3. After the expiration of a minimum contract period mutually agreed upon between the parties in writing, either party may should the need arise terminate the contract subject to the compliance with the notice periods and dates applicable to the contract.

10.4. Both parties may terminate the contract on account of an important reason, which makes the continuation of the contract unreasonable, without need of complying with the notice periods and -dates (termination without notice). Important reasons that entitle Init7 to an immediate termination, in particular pertain to violations of the provisions in section. 4.2. to 4.4. of these GTC by the customer.

10.5. The termination shall be in writing and shipped as a registered letter.

11. Changes to the contract or else the GTC

11.1. Init7 can adjust the contractual services and/or the remunerations particularly in the case of a change in prime costs subject to the compliance with a notice period of 30 days to the end of each month. The notice has to be submitted in an appropriate form. In as far as the customer is considerably disadvantaged by the announced contract changes, he has the right to terminate the contract on the date the changes come into effect. This termination right is forfeited on the date the changes become effective. Changes in statutory levy rates (e.g. VAT) shall be deemed as tacitly accepted as of the statutory set date.

11.2. The change of the remaining provisions or amendments to the contract must be in writing, whereby reference has to be made to the relevant provision that is to be amended as well as signed by both parties with valid signatures.

11.3. Init7 reserves the right to amend these GTC at any time. Changes of the GTC will be announced to the customer in an appropriate form. In as far as the customer is significantly disadvantaged by the announced changes in the GTC; he reserves the right to terminate the contract subject to the compliance with the hitherto applicable notice periods and dates. This extraordinary termination right is forfeited on the date the changes becomes effective.

12. Assignment, transfer and pledging

12.1. Rights and obligations that arise from the contract concluded between the parties may not be assigned to third parties, transferred or pledged without the prior written consent of the contract partner. This consent may not be denied without a substantive reason.

12.2. Not valid as third parties within the meaning of the above provision are companies within the Init7 Group.

13. Applicable law and place of jurisdiction

13.1. The contracts concluded between the customer and Init7 are subject to Swiss law.

13.2. Place of jurisdiction is Zurich/Switzerland.