



General Terms and Conditions for the Purchase of IT Services Last updated March 2023

1. Scope of application

These General Terms and Conditions for the Purchase of IT Services (including all annexes and referenced documents) – hereinafter referred to as: “Terms and Conditions for the Purchase of IT Services” – govern the contractual relationship between Supplier and TIGER Coatings GmbH & Co. KG, domiciled in A-4600 Wels, Negrellistrasse 36, hereinafter referred to as “TIGER”. They apply to all IT Services, including:

- advisory and consulting services
- project management including roll-out support
- software maintenance services, repair, and support
- adjustment, customizing, configuration, parameterization
- implementation, development services
- testing and approval services
- and any other IT services

of Supplier, (collectively referred to as “IT Services”), which Supplier provides TIGER.

2. Conclusion of the contract

Supplier shall submit its offer exclusively based on TIGER’s enquiry and these Terms and Conditions for the Purchase of IT Services. A request for proposal (“RFP”) describing the requirements of the IT Services may also be attached to TIGER’s enquiry.

Supplier shall incorporate any additions or amendments to the offer agreed on by TIGER and Supplier into a final version of the offer (“final offer”) and send it to TIGER. Supplier’s quotations and remuneration details are binding, and Supplier shall always prepare them free of charge, regardless of what preparatory work is necessary for this.

The contract shall not be deemed to be concluded until TIGER has submitted a written order to Supplier after receiving Supplier’s final offer, with – where appropriate - reference to the RFP (“Contract”).

Only the following shall form part of the Contract:

- TIGER’s order
- Supplier’s final offer – with reference to any applicable RFP
- these Terms and Conditions for the Purchase of IT Services including any annexes contained therein.

Documents, links and any General Terms and Conditions of Supplier referred to in the offer or any order confirmation of Supplier shall not form part of the Contract. Such documents or links may only become part of the Contract if they are brought to the attention of TIGER prior to the conclusion of the Contract, explicitly accepted by TIGER, and subsequently incorporated in the final offer.

Acts of performance, payment for the IT Services covered by the Contract or silence on the part of TIGER shall not constitute acceptance of Supplier’s General or other Terms and Conditions.

The Terms and Conditions for the Purchase of IT Services shall in any case become effective as soon as the Supplier starts to provide the IT Services.

The Terms and Conditions for the Purchase of IT Services shall apply throughout the business relationship between Supplier and TIGER, and do not need to be agreed again each time a Contract is concluded.

The Terms and Conditions for the Purchase of IT Services are available online at <https://www.tiger-coatings.com/gb-en/downloads/general-business-terms> where they can



Catalogues, Brochures and Guides on Powder Coating - TIGER Coatings (tiger-coatings.com) be downloaded and printed.

TIGER may correct obvious errors, such as misspellings or miscalculations in orders and similar declarations of intent at any time.

3. Subject of performance

Supplier shall provide the IT Services according to the service description as specified in the Contract. The service description is conclusive: a supplementary written agreement between TIGER and Supplier by email is required for the provision of any additional IT Services. If no such written agreement exists, Supplier shall have no claim to remuneration for such additional IT Services.

If there is no such service description, the requirement description specified in TIGER's enquiry shall apply. Otherwise, the standard market type and scope for the IT Services shall apply.

The IT Services offered by Supplier shall include all ancillary work and other services necessary for the fulfilment of the Contract (e.g., project management, documentation, etc.), even if these are not expressly stated in the final offer or Contract. Supplier shall specify TIGER's cooperation obligations and their scope in its offer in a comprehensible and conclusive manner.

Before concluding the Contract, Supplier shall notify TIGER of any of the following: the service description in the Contract is incomplete or not readily comprehensible; the service description cannot be implemented or contains cost drivers; or the service description goes beyond TIGER's requirement description.

By submitting its offer, Supplier declares that all conditions and resources required for the timely performance of its IT Services are given and is liable for this. Once the final offer has been submitted, Supplier may no longer argue that the documents submitted by TIGER for the preparation of the offer were incomplete, unclear or incorrect.

4. Performance of the IT Services

Supplier shall report regularly to TIGER's designated project manager on how the provision of its IT Services is progressing.

If Supplier anticipates any circumstances that could prevent it from performing the IT Services on time or from performing them to the agreed quality, Supplier shall immediately notify TIGER by sending an email to TIGER's project manager or a person designated by TIGER for the project. If the IT Services are not provided on time, TIGER may withdraw from the Contract or demand performance, even if Supplier has fulfilled its obligation to notify TIGER.

If Supplier has direct access to TIGER's systems or if IT Services are provided on TIGER's premises, Supplier undertakes to comply with TIGER's information security requirements.

If Supplier's IT services include **programming, adjustment, customizing, configuration or similar**, the following shall also apply:

Unless otherwise specified in the Contract, the programming shall be delivered by Supplier in object code form and source code form.

Delivery of the documentation necessary for using the IT Services, in particular comprising (1) user documentation, (2) system documentation, and (3) development documentation for the programming, is also an integral part of the IT Services.

Supplier shall deliver the above documentation at no additional charge.

5. Rights of use

Supplier shall grant TIGER the mandatory free use of works in accordance with Sections 40d and 40e of the Austrian Copyright Act (Urheberrechtsgesetz, UrhG) for the results of the IT Services.



Unless otherwise explicitly stated in the Contract, the scope of the intended use referred to in Section 40d (2) UrhG is defined as the exclusive and irrevocable right of use, unlimited in terms of location, content and time, and transferable and sub-licensable, pursuant to Sections 14 et seq. UrhG, by TIGER and its affiliated companies.

An affiliated company is defined as any legal entity that TIGER directly or indirectly controls, is controlled by, or is under common control. A legal entity "controls" another legal entity if it holds at least fifty percent (50%) of the voting rights on the board of directors or other control mechanisms over the other legal entity.

6. Documents provided by TIGER

All specifications and other documents ("Documents") provided by TIGER are the sole intellectual and physical property of TIGER, and TIGER reserves all rights in this respect. Supplier may use these Documents solely for the agreed purpose; it may neither reproduce them nor disclose them to third parties or publish them without the prior written consent of TIGER by email, and they shall always be treated as strictly confidential.

7. Changes to IT Services / Change request procedure

All changes to the subject of performance of the IT Services (scope or content) are subject to a formalized change request ("CR") procedure.

Each CR shall be submitted by Supplier's project manager or TIGER's project manager in writing by email and described as precisely as possible. Supplier shall define the outlay required for the implementation of the CR and its impact on the overall project in terms of time, cost and quality.

CRs are binding and Supplier shall always prepare them free of charge, regardless of what preparatory work is necessary for this.

A CR may only be implemented if it has been accepted by TIGER in writing by email beforehand.

8. Date of performance, service disruptions

Dates and deadlines announced by or agreed upon with Supplier are binding.

Supplier shall notify TIGER's project manager in writing by email as soon as the agreed service has been completed or other deadlines have been met in accordance with the Contract or the project plan. Receipt of TIGER's written confirmation by email shall determine whether or not the performance date or the performance deadline has been met by the handover or acceptance of the IT Services.

If the agreed dates and deadlines or the quality and quantity of the subject of performance have not been met, the statutory provisions governing delays in the performance shall apply (even if Supplier has complied with its obligation to notify TIGER). In case of a delay in the performance, TIGER may claim a penalty of 5% of the total order value from Supplier for each week of the delay, up to the maximum total order value until the services have been rendered in full. TIGER expressly reserves the right to claim any further damages.

Payment by TIGER shall not constitute acceptance of the IT Services, nor does it constitute acknowledgement that Supplier's services meet the requirements specified in the Contract. In particular, payments shall not constitute any waiver of the right of assertion of defects and warranty claims or claims for damages.

The acceptance and confirmation of the IT Services performed, and payment of the invoice are subject to the condition that the service is free of defects in terms of quantity, quality and timeliness. Unconditional acceptance of a delayed or defective or incomplete service shall not constitute any waiver of claims TIGER is entitled to. The application of Section 377 of the Austrian Business Code (Unternehmensgesetzbuch, § 377 UGB) is expressly excluded.

Partial deliveries are generally inadmissible unless TIGER has expressly agreed to them in advance and in writing by email.



Wels shall be the place of performance for IT Services provided by Supplier, unless otherwise agreed in the Contract.

9. Acceptance

The IT Services shall explicitly be accepted in writing, including an acceptance test, sent by email, unless otherwise specified in the Contract.

If there are any defects, the acceptance process shall be resumed within a reasonable period of time after Supplier has remedied such defects. Defects are defined as deviations from the service description agreed in writing, or differences that prevent the IT services from being used for their intended purpose.

If two attempts to remedy the defect are unsuccessful, TIGER has the right to withdraw from the Contract or may demand a reduction in price.

After the IT Services have been accepted, Supplier shall remedy any defects free of charge within the scope of the warranty.

If Supplier foresees that circumstances could prevent it from performing the IT Services on time or from performing the IT Services to the agreed quality, Supplier shall immediately notify TIGER by sending an email to TIGER's project manager or a person designated by TIGER for the project. If the services are not provided on time, TIGER may withdraw from the Contract or demand performance, even if Supplier has fulfilled its obligation to notify TIGER.

10. Impossibility

If, prior to the conclusion of the Contract or in the course of the performance of the IT Services, it becomes apparent that the performance of the IT Services is actually or legally impossible, Supplier shall be obliged to notify TIGER of this immediately in writing by email. If TIGER is unable to amend the service description or if Supplier fails to provide the necessary conditions for performing the services, TIGER may refuse performance and withdraw from the Contract. The Contract shall be rescinded in accordance with unjust enrichment law.

TIGER shall also be entitled to compensation if the performance is impossible due to Supplier's failure to meet its obligations.

11. Remuneration

Unless otherwise agreed in the Contract, all prices shall be fixed prices, exclusive of VAT, and shall include all costs incurred by Supplier for the provision of the IT Services, e.g., costs for quality management, project management, functional and quality tests, and documentation. Supplier shall only be entitled to raise the remuneration after written agreement with TIGER in advance.

If the Contract states that the costs are to be calculated on the basis of the required time and labour, the services shall be invoiced on the basis of certificates of performance which shall be approved by TIGER. These certificates of performance shall also indicate how the project is progressing.

Remuneration is due only if the IT Services provided satisfy the terms of the Contract.

Invoices shall be itemized so that TIGER can easily identify the scope and content of the services and the associated expenses and costs. Invoices shall include the order number and all other order details. Invoices shall contain all the information required by law and shall comply with VAT law. In addition, Supplier shall include its BIC and IBAN on the invoice. Supplier shall be liable for any incorrect information.

If invoices are not issued correctly or if the IT Services are defective, the payment period shall begin again from the date on which the defects have been remedied. TIGER may withhold payments until Supplier has resolved any notices of defects.

Payment for accepted IT Services shall be made in accordance with the payment conditions specified in the Contract, or alternatively within 14 days with a 3% reduction, or within 30 days net, calculated from the date on which TIGER receives the invoice.



Payment shall not constitute acceptance of the IT Services, nor shall it constitute acknowledgement that the services meet the requirements specified in the Contract. In particular, payments shall not constitute any waiver of the right to assertion of defects and warranty claims or claims for damages.

Supplier is not entitled to set off its claims against TIGER against liabilities to TIGER. Supplier's claims against TIGER may not be assigned without TIGER's written consent. All bank fees charged by the receiving bank shall be borne by Supplier.

12. Warranty

Supplier guarantees that the IT Services will be performed professionally and in accordance with the applicable industry standards and will have the properties that are commonly assumed and agreed upon. Supplier shall apply a high standard of diligence and quality in the performance of the Contract and shall use only competent personnel.

Supplier shall be responsible for the fulfilment of the IT Services in accordance with the terms on work contracts, unless otherwise expressly agreed in the Contract.

The warranty period is 2 years and begins with the written acceptance of the IT Services by TIGER via e-mail, unless otherwise agreed in the Contract. If there are hidden defects, the warranty period is calculated from the date on which TIGER identifies the defect.

If the software is provided for a limited period of time (e.g., subscriptions, cloud services, etc.), Supplier undertakes to maintain the defined scope of services and functions at the defined service level throughout the entire term. Failure to do so shall result in a waiver of TIGER's obligation to pay for the duration and extent in which the IT Services are unusable.

There shall be a rebuttable assumption that the IT Services were defective at the time of handover if the defectiveness becomes apparent within the warranty period. TIGER shall notify Supplier of any defect in writing via email as soon as it has been identified, but no later than within the agreed warranty period.

If a warranty claim arises, Supplier undertakes to remedy the defect that has caused the warranty claim. If Supplier is unable to restore the services to the contractually agreed condition within a reasonable period of time, TIGER may request a price reduction or cancel the Contract and, in the course of the cancellation, to claim reimbursement of the fee paid to Supplier for the IT Services.

If Supplier does not proceed with the rectification of the defect immediately after being requested to do so, TIGER may in urgent cases, in particular to avert imminent threats or to avoid substantial damage, rectify the defect itself or commission a third party to do so at Supplier's expense.

If action is taken to improve or replace the IT Services, or in the case of supplementary performance, the limitation period for the performance of the remedial action starts over again. If a maintenance contract is concluded, this shall not replace or limit the performance of the warranty obligations by Supplier and its vicarious agents free of charge.

Supplier shall compensate TIGER for any damage or costs incurred as a result of the defective performance.

13. Freedom from third party rights

Supplier guarantees that the IT Services it undertakes to provide are free from third party rights, in particular third-party intellectual property rights, which might impair or preclude the use of the IT Services in accordance with the Contract, in particular the exercise of the rights of use granted to TIGER by Supplier.

Supplier shall indemnify TIGER against any third-party claims arising from the infringement of property rights by the delivered goods and services and against all costs and expenses incurred by TIGER as a result of such third-party claims, including the costs of any legal action.



In order to facilitate further use, Supplier shall either immediately modify or replace the affected service in such a way that the third party's rights are not violated, and the features agreed upon in the Contract are nevertheless included or procure the required service at Supplier's expense.

If Supplier is unable to do so, Supplier shall, at TIGER's discretion, either withdraw the affected service and reimburse TIGER for the amount paid to it or, in agreement with TIGER, deduct a portion of the remuneration that corresponds to the resulting reduction in use; the latter shall be subject to the condition that the IT Service is still suitable for use by TIGER.

Supplier shall compensate TIGER for all damages, expenses and costs arising from the above violation of the law, including the expenses and costs of purchasing a replacement for the affected service.

14. Liability

Supplier shall be liable for all loss or damage, consequential damages and for any costs incurred by TIGER.

If TIGER asserts claims for damages, the provisions of civil law in accordance with Sections 1293 et seq. of the Austrian Civil Code (ABGB) shall apply. Supplier shall be liable for all vicarious agents. The statutory limitation period is 3 years starting from the date on which the damage and the responsible party have been identified.

When the Contract is concluded, Supplier shall, at TIGER's request, provide evidence that it has taken out (product) liability insurance in a sufficient amount to cover the scope and possible liability consequences.

Supplier shall indemnify and hold TIGER harmless against all third-party claims arising from a violation of these Terms and Conditions for the Purchase of IT Services by Supplier itself or its vicarious agents.

15. SubSuppliers

Supplier may subcontract the contractually agreed IT Services to third parties, subject to prior written approval of the subSupplier by TIGER via email. If Supplier engages a subSupplier, Supplier shall be liable for the proper fulfillment of its contractual obligations towards TIGER.

16. Confidentiality

Supplier undertakes to treat the information it receives from TIGER and the content of the Contract ("Confidential Information") as strictly confidential, not to disclose it to third parties of any kind, not to publish it, and to use it exclusively within the scope of the purpose specified in the Contract.

Supplier undertakes to impose these confidentiality obligations on its employees and other vicarious agents. This also includes the obligation of Supplier to require its employees to comply with the provisions of Section 6 (data secrecy) of the Austrian Data Protection Act (Datenschutzgesetz, DSG).

These confidentiality obligations shall remain in force even after termination of the Contract.

17. Data protection

Supplier undertakes to comply with applicable data protection law in its currently valid version. In particular, Supplier undertakes to guarantee compliance with all of its legal obligations as data controller or processor.

If the IT Services to be provided by Supplier include processing of personal data on behalf of TIGER, Supplier and TIGER shall enter into a data processing agreement in accordance with Article 28 of the EU-GDPR on the basis of TIGER's sample contract.

18. Contract period

The Contract terminates after Supplier has provided the IT Services specified in the Contract. If a continuing obligation has been agreed, the Contract may be terminated by either party with three months' notice as of the last day of the month, unless otherwise specified in the Contract.



The right of both contracting parties to extraordinary termination for good cause shall remain unaffected. In particular, any material violation of the provisions of the Contract by a contracting party shall be deemed to be good cause if the contractual condition is not restored within a reasonable period of time, despite prior written request via email by the terminating contracting party.

All terminations shall be made in writing in order to be effective.

If Supplier wishes to terminate the Contract with TIGER, it shall additionally send an email to ebillingIT@tiger-coatings.com.

19. Force majeure

“Force majeure” means the occurrence of an event or circumstance – such as war, a natural disaster, industrial action affecting more than one company, or similar – which prevents TIGER or Supplier from fulfilling one or more of its contractual obligations under the Contract.

TIGER or Supplier may invoke force majeure if the following conditions are met, and if the party impacted by these conditions proves that:

- (a) this exceptional impediment is beyond its reasonable control; and
- (b) it could not reasonably have been foreseen at the time the Contract was entered into, or the triggering event had been known for some time; and
- (c) the impact of the impediment could not have been reasonably avoided or overcome by the affected party despite the exercise of utmost care.

In the event of force majeure, TIGER shall be released from the obligation to accept delivery for the duration of the disruption and also may withdraw from the Contract without Supplier acquiring any claims against TIGER as a result.

If force majeure prevents Supplier from fulfilling its obligations, TIGER shall be notified immediately in writing by email. Contractual obligations shall be deemed suspended for the duration of such events. In this case, TIGER reserves the right to withdraw from the Contract.

20. Loyalty

Supplier undertakes to maintain loyalty to TIGER. It shall refrain from any attempt to recruit and engage, whether directly or via third parties, employees of TIGER for the duration of the Contract and for 12 months after the termination of the Contract.

21. Compliance

Supplier undertakes to comply with all applicable laws, regulations and governmental requirements at all times, in particular those relating to bribery, corruption and the acceptance and granting of benefits, and to possess and maintain the necessary authorizations relevant to its obligations under these Terms and Conditions for the Purchase of IT Services.

22. General

Severability: If any provision of these Terms and Conditions for the Purchase of IT Services is or becomes invalid or unenforceable, this shall not affect the validity of the remaining provisions. The contracting parties shall agree in writing to replace the invalid or ineffective provision with a valid provision that most closely reflects the parties’ intentions, in application of the applicable statutory provisions.

All additions and amendments to the Contract shall be made in writing.

No supplementary verbal agreements have been made.

23. Governing law

This Contract shall be governed by Austrian law, but not by the UN Convention on Contracts for the International Sale of Goods. Legal norms that refer to laws of other states are excluded.



24. Jurisdiction

The place of jurisdiction for all disputes arising in connection with the business relationship between Supplier and TIGER, in particular arising from or in connection with these Terms and Conditions for the Purchase of IT Services, shall be the competent court in Wels.