

# General Terms and Conditions synedra Schweiz AG

Ringstrasse 14 | CH-8600 Dübendorf ("synedra")

## I. Scope

In the absence of any additional written agreement, these General Terms and Conditions ("GTC") are the only Terms and Conditions governing transactions between synedra and its Customer. These GTC govern transactions as set out below (in short: "services"):

- i. provision of supporting and executing services according to an individual contract and these GTC. Supporting services include consulting services within the field of information technologies (IT), whereas executing services extend to those services where synedra bears responsibility for the planning, governing and management of the services provided and the results achieved.
- ii. software development and implementation and other works under copyright law; granting of licenses according to an individual contract and these GTC.
- iii. maintenance and support according to an individual contract and these GTC.
- iv. distribution of standard software and sale of merchandise, in particular hardware.

Any alternative terms and conditions proposed by the Customer for the transaction in question and the entire business relationship shall not apply unless expressly accepted by synedra and the Customer.

For licensed third-party software or materials, third-party terms and conditions shall apply.

## II. Conclusion of Contract

Orders shall be binding upon synedra (conclusion of contract) once synedra has provided written confirmation of the order and shall be binding only to the extent set out in such order.

Offers, quotes and/or estimates provided by synedra, in particular with regard to time and material, are subject to alteration and are non-binding unless otherwise agreed in writing. This also applies to information obtained from catalogs, brochures as well as the Internet. All quotation and project documents remain the exclusive property of synedra.

## III. Delivery, Retention of Title

synedra is entitled to provide partial deliveries and services at any time.

synedra shall use all reasonable endeavors to meet the delivery dates agreed upon. If synedra fails to comply with the delivery dates agreed upon, a delay shall be deemed to have occurred only after a reasonable period of grace has elapsed. Claims for compensation arising from non-compliance with delivery dates are excluded as far as is legally permissible, and in any case limited according to Clause VIII. (Limitation of Liability / Warranty).

synedra will not be responsible for any delay and cost increase due to incorrect, incomplete or subsequently changed information or material provided by the Customer to synedra. The resulting additional costs shall be borne by the Customer. synedra shall not be liable for delay in performing its obligations under this agreement if such delay results from strikes, natural disasters, war or other force majeure events. In such circumstances, delivery periods shall be extended accordingly.

Goods and services delivered to the Customer remain the sole property of synedra until the purchase price has been paid in full.

## IV. Notice of Defects / Warranty Claims

The Customer has to inspect the goods and services with regard to their correctness and functionality immediately upon delivery. If synedra does not receive a written notice of defects within 7 days after delivery or acceptance of the goods and services, the (partial) goods and services shall be deemed approved and/or accepted.

If the Customer notifies synedra of any defect in its goods in consequence of which they fail to conform to any of the warranties stated herein, synedra shall, at synedra's option, repair or replace the goods or deliver missing goods. If, however, a repair or replacement of the notified defect is impossible or leads to disproportionately high expenditure for synedra, the Customer shall be entitled to a reasonable reduction of the purchase price. Other warranty claims, in particular the conversion right, are excluded to the extent

permitted by law. Any claims exceeding the claims stated herein shall be equally excluded to the extent permitted by law.

## V. Payment Conditions

Payment of the invoice is due immediately upon receipt, or within a specified period from the date of invoice, which has to be confirmed in writing by synedra's management. The Customer is obliged to transfer the invoice amount to the account specified in the invoice, without any deductions and free of expenses and costs.

All prices quoted are ex works and exclusive of VAT and any other taxes or duties.

The customer shall bear any costs and expenses necessary or appropriate for the provision of the services.

In the event of overdue payment, synedra shall be entitled to charge default interest at a rate of 5% above the base rate. The assertion of further claims for damages by synedra is not excluded. In the event of overdue payment, synedra shall also be entitled to suspend all services until payment has been received in full and/or to assert its retention of title and to reclaim and utilize software data carriers, documentation and goods delivered by synedra to the extent to which their utilization covers any outstanding invoices.

## VI. Order Cancellation

In case the Customer cancels services already ordered by the Customer, the Customer shall be charged as follows:

*Licenses:*

- 50 % of the respective license fee upon expiry of 4 months after the Customer has placed the order;
- 90 % of the respective license fee upon expiry of 6 months after the Customer has placed the order

Example: Order placed by the Customer on February 4:

50 % of the respective license fee in the event of cancellation on or after June 4 and

90 % of the respective license fee in the event of cancellation on or after August 4

*Services:*

- No cancellation fee up to 15 working days before the agreed date;
- 15 to 10 working days before the agreed date: 50 % of the agreed remuneration;
- 10 to 5 working days before the agreed date: 75 % of the agreed remuneration;
- less than 5 working days before the agreed date: 100 % of the agreed remuneration.

*Software maintenance services:*

If a software maintenance agreement has already been concluded between the Customer and synedra, then the periods of notice stated in the software maintenance agreement shall be observed.

## VII. Customer's Obligations

Insofar as it is necessary and/or useful for the provision of the services supplied by synedra, also within the framework of the warranty, the customer shall (i) provide synedra with all required information and grant access to its business premises and its entire hardware and software and (ii) provide all assistance necessary, including staff and/or other resources (telephone, rooms, etc.), to enable synedra to provide the services agreed upon free of charge and upon request. In case of unjustified use of services, synedra shall be entitled to fair compensation according to the current price list.

The Customer ensures to have all rights (in particular copyrights and usage rights) necessary for the proper execution of the services by synedra.

If the Customer is offered hardware and third-party software, the Customer is obliged to explicitly inform synedra about special requirements (e.g., compliance with the Medical Devices Act).

## VIII. Limitation of Liability / Warranty

synedra shall be liable for damages caused by gross negligence or willful misconduct on the part of synedra according to applicable law. synedra shall not be liable for slight negligence with the exception of physical injury resulting from such negligence.

The liability of synedra shall in any case be limited to the total amount paid by the Customer to synedra for the correspondent services, and shall in no case exceed a maximum amount of CHF 500,000 (CHF five hundred thousand).

synedra cannot be held liable for consequential damage, financial loss, loss of profits, loss of anticipated savings, loss of interest and damage arising from claims of third parties. synedra shall not assume any warranty or liability for:

- errors, malfunctions or defects caused by improper operation/use (in particular with regard to the product documentation delivered, unsuitable organization or operating conditions) or by damage in transit;
- alterations, modifications, adaptations and the like that have not been carried out or authorized by synedra;
- claims based on the combination or use of services together with third-party devices, data or programs that have not been supplied by synedra and/or have not been explicitly accepted by synedra in writing; synedra shall only be liable for damage caused by any of its employees or agents only insofar as the damage was caused by an act of gross negligence that has been absolutely necessary for the fulfillment of contractual obligations.
- synedra shall only be liable for damage caused by any of its employees or agents only insofar as the damage was caused by an act of gross negligence that has been absolutely necessary for the fulfillment of contractual obligations.

Compensation for damaged data or software shall only be granted if any obligation to provide a proper operating environment has been met by the Customer. Claims for damages, under exclusion of any other claims, must be brought to court within a period of six months from when the Customer has become aware of the damage and the liable party.

Any other remedy, including but not limited to mistake and disappearance of the basis of the transaction, are hereby excluded to the fullest extent permitted by law.

synedra expressly excludes any liability and warranty insofar as the service for and/or maintenance of the system provided is not carried out by synedra itself or by a person or company expressly authorized in writing by synedra.

## IX. Confidentiality

The Customer agrees that any confidential information connected with synedra, in particular information on commercial, strategic and technical data, that is disclosed to the Customer in the context of quotations and other project-related documents or otherwise comes into the possession of the Customer, is to be treated as confidential. The obligation to maintain information in strict confidence shall in particular include the prohibition to duplicate information or disclose information to third parties and shall survive any termination of the contract. The Customer shall return all documents that contain confidential information and are not subject to the services agreed upon immediately following synedra's request.

## X. Non-Solicitation Agreement

The Customer commits to abstain from directly or indirectly soliciting and employing any employee or independent contractor of synedra who were involved in the fulfillment of the contract and/or from using their expertise in any other way. This obligation shall remain in effect throughout the contract relationship and for a period of two years after termination of the contract relationship.

The Customer violating this provision shall pay, as liquidated damages, a total of CHF 50,000 (spelled out: CHF fifty thousand). Further claims for compensation and other claims to which synedra is entitled by law that go beyond the contractual penalty shall remain unaffected.

## XI. Intellectual Property Rights

synedra retains all Intellectual Property Rights (in particular copyrights, trademark and patent rights) to software developed by synedra. The Customer will be granted a non-exclusive, non-transferable license to use synedra software to the extent required to use the product according to an individual contract.

The transfer of the right of use is subject to the suspensive condition of full payment of the agreed-upon fees by the Customer and the fulfillment of all other obligations arising from these GTC.

The Customer shall not make unauthorized copies of the

software and shall support synedra in defending its Intellectual Property Rights.

If the Customer oversteps its rights of use significantly, i.e., by unauthorized alterations, decompilation or transfer of the software to third parties, synedra shall be entitled to revoke the customer's rights of use with immediate effect by means of a registered letter. In this case, the customer is no longer entitled to use the software in any form whatsoever. synedra furthermore explicitly reserves the right to take legal action.

## XII. Software Maintenance

Maintenance services apply to the program version supplied by synedra.

Unless rights of third parties are infringed, synedra shall exclusively provide the services stated below (hereinafter referred to as "maintenance services") and all updates, upgrades and bug fix versions released by synedra during the term of the contract.

The maintenance services do not include, in particular, the following services:

- services for the software which become necessary through use of the software other than as recommended by the manufacturer;
- services for the software which become necessary owing to changes to the hardware and/or the system software through the Customer or to a defective hardware.

The Customer is responsible for proactive system monitoring.

synedra undertakes to provide maintenance services pursuant to generally acknowledged IT principles and to the current state of the art. During the provision of maintenance services, temporary interruptions in computer operations may occur.

Maintenance services may lead to deviations from the documentation and other specifications that have been handed over to the Customer. synedra endeavors to document these deviations and to inform the Customer in due time.

If the provision of maintenance services is dependent on the development of third-party software, then this may lead to service limitations for which synedra shall not be held responsible.

synedra processes occurring software errors after being notified by the Customer. A software maintenance agreement between synedra and the Customer has to be concluded.

## XIII. Termination

The contractual relationship will be terminated with the provision of the ordered services unless any post-contractual rights or obligations between the contractual partners exist. Each contractual partner may terminate the individual contract for cause at any time without due notice. Notice of termination of the contract shall be given by registered letter to the last address provided to the contractual partner. synedra shall be authorized to terminate the contractual relationship for cause

if, amongst others, the Customer violates its contractual obligations (e.g., if the Customer fails to comply with its payment obligations within agreed contract terms, plus a reasonable period of grace).

synedra has the right to terminate the contract if it becomes apparent in the course of the work that provision of the services according to the individual contract and the GTC is rendered definitely and permanently impossible and if the Customer, after having been notified by synedra about the circumstances, is unwilling to change the service specifications to the effect that the provision of the services becomes possible. The Customer shall be obliged in that event to reimburse all fees for services rendered, costs and expenses incurred by synedra up to the effective termination of the contract.

#### **XIV. General Terms**

synedra may engage employees of its choice and/or subcontractors for the fulfillment of the services agreed upon. The Customer may not assign or transfer rights and claims stated in the individual contract without synedra's prior written consent.

The Customer consents to receive information from synedra for promotional purposes (especially information on newly available software improvements or components and new software versions) also by email.

Swiss law shall apply. The provisions of the Convention on Contracts for the International Sale of Goods adopted on April 11, 1980 (UNCITRAL Sales Convention) are waived.

Any litigation arising directly or indirectly from the contractual relationship shall be exclusively pursued by the competent court at the registered office of synedra.

Amendments and changes of the individual contract or these GTC must be in writing. The same applies to the waiver of the requirement of written form.

If any provision of the individual contract or the GTC become invalid, the remaining provisions stay in force. In this case, synedra and the Customer agree that the invalid provision shall be replaced by a provision whose commercial purpose approaches that of the invalid provision as closely as possible.