CMLog
Solutions for logistics

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- Germany -

Terms of Service
valid as of 2010/01/01

1) General

a) All supplies and services of the 'CMLog - Solutions for Logistics' - hereinafter CMLog - are provided on the basis of these general terms and conditions. Complementary or deviating agreements require the express written consent of CMLog; In particular, this applies to differing terms and conditions.

2) Offer and conclusion of contract

a) The offers of CMLog are free. A contract is only concluded by an oral or written order and the written confirmation of order by CMLog. These provisions shall be recognized by the order or acceptance of the respective delivery and / or services by the licensee or customer. The same applies to additions, amendments or side agreements.

3) Contract

a) Standard Software
Standard software is understood to mean applications that are not designed specifically for a customer, but for a larger number of users. Software of this category is licensed "as is". The guarantee of CMLog for both software and programs and data distributed by CMLog refers only to the replacement of faulty data carriers. The license agreement, which is attached to the respective product, regulates further details

b) Individual software
The programming for individual software according to its scope of services and its use is based on the system analysis carried out according to the client's specifications and forms the basis for the programming. The details of the client are laid down in a contract booklet.

c) Software Services
This point includes all other services, e.g. Maintenance, maintenance, installation, migration, consulting, training. The services offered are based on the information given by the customer. Dates and delivery periods are non-binding, unless otherwise expressly agreed in writing.

4) Completion date, installation and instruction

a) The performance dates for the completion of the individual project sections and completion of the software including complete instructions for use shall be regulated in the individual contracts and agreed upon in writing at the latest upon commencement of the contract.

b) After installing the program, the CMLog will instruct the client and a maximum of three of its employees to use the software appropriately. At the request of the customer, CMLog will repeat or intensify the instruction. The additional instruction period is to be paid for separately.

c) If a completion date is exceeded, the customer shall in all cases first notify the completion in writing and set a reasonable deadline for performance or supplementary performance. Cancellation of the contract by the contract is only permitted after this deadline. The deadline must be at least 4 weeks.

d) Reminder and setting of deadlines may only be made if the exceeding of the completion deadline is not attributable to any subsequent alteration or extension wishes of the client or other circumstances beyond the control of the Contractor.

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5) Changes and additions

a) The CMLog shall take into account any changes or additions to the Client with regard to the scope of functions, the program structure, the screen layout, interface updates with regard to the software or databases provided by the Client or any other features which arise during the course of the program development Substantially negligibly or to a small extent.

b) Insofar as amendments and supplementary requests result in an increase in the number of CMLog, the granting of a supplementary order is to be agreed. The remuneration is based on the usual rates of CMLog or according to a separate remuneration agreement.

c) The CMLog will inform the client in writing in advance if and to what extent an additional cost is incurred. The customer will confirm this extradition in writing. The order is deemed to have been issued. Otherwise, it should be assumed that the amendment or amendment is not to be carried out.

6) Obligations of the Customer

a) The client undertakes to support the contractor's activities necessary for the software production, in particular to provide the Contractor with the information and tools necessary for the software creation in time with regard to the system used by the customer, the system environment and the associated interfaces , The customer guarantees that the hardware, software, databases and interfaces provided by him are functional and that the necessary licenses are available to him.

b) The client shall, free of charge, establish all requirements in the area of his business sphere, which are necessary for the creation and commissioning of the software. Workrooms must be accessible during business hours and necessary work equipment is available.

c) During the required test runs and acceptance tests, the client is personally present or provides competent staff who are authorized to decide on deficiencies, function extensions, function reductions and changes to the program structure and to make a binding decision. The client shall also provide the necessary test data in good time on request.

d) Changes to the hardware configuration or the system software during the execution of the order must be communicated to the Contractor without delay.

e) The client assumes the coordination obligation at the interfaces to the customer's own services and the services provided by third parties, including the entire project organization. The contractor is only responsible for the performance listed in the service agreement.

f) The client shall provide the contractor with a remote maintenance access on VPN basis free of charge at the latest from the start of the integration work.

g) The contracting authority shall take measures to ensure the protection of its systems and data records, to a degree and at a frequency which is appropriate to the particular meaning of the systems and data stocks.

h) The client shall not alter or remove any markings, proprietary notices and proprietary notices of the Contractor from the Program. This also applies to all accompanying materials.

7) Subcontractors

a) The CMLog is free to use subcontractors and freelancers to fulfill the agreed performance. The CMLog is liable for these as well as for performance aids.

b) In justified cases, the client may refuse the inclusion of subcontractors in writing before placing the order.

8) Acceptance

a) Acceptance takes place after the completion of the overall performance, usually after the installation of the program on the hardware and implementation of the system at the client as well as the initial certification. Partial acceptance is only permitted with an express written agreement. They are subject to the same regulations as for acceptance.

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b) After the installation and implementation of the program, the CMLog shall verify the existence of the program functions agreed in the dutiesheet by means of appropriate acceptance tests. At the request of the client, test data provided by him shall be used to test the program in a practical manner. If the test data are delivered late, the test is carried out with the data used up to then.

c) If the software has passed the acceptance tests, the customer is obliged to issue a written declaration of conformity at the request of CMLog. Any minor defects identified shall be recorded in the declaration of acceptance.

d) The acceptance may not be refused due to negligible deficiencies. The CMLog may set a reasonable deadline for submission of the declaration of acceptance, after which the software shall be considered as accepted.

9) Payment

a) Payments to the Contractor shall be made without deductions upon the agreed due date, but no later than 14 days after the date of the invoice. In the case of payment to the account of the Contractor, the date of the credit note on the account is decisive.

b) The deduction of cash discount requires special written agreement.

c) If the customer is in default of payment, the Contractor shall be entitled to charge default interest at the rate of eight percentage points above the base rate p.a. to demand. The assertion of higher interest or further damage is not excluded.

d) The customer is only entitled to set-off rights if his counterclaims have been legally established, are decisive, uncontested or recognized by the Contractor. The customer is only entitled to exercise a right of retention to the extent that his counterclaim is based on the same contractual relationship.

10) Use rights

a) The client may use the software within the scope of the agreed contractual purpose and receives a simple right of use for this purpose.
B) An extension of the scope of use to additional jobs, systems or operating sites is subject to approval and requires the prior written consent of CMLog.

b) The transfer of the program to third parties is only permitted if the client ceases to use his own and deletes all existing copies of the program. In this case, the client shall impose the restrictions on the scope of use to the acquirer with effect in favor of the CMLog agreed upon under this contract. The CMLog has to be shown in writing.

c) CMLog shall remain the owner of the software and undertake to store it securely in order to remedy the software program that requires access to the source code immediately upon request by the client. After the expiry of the warranty period, this activity is only carried out under a separately agreed maintenance contract.

11) Claims for defects

a) After appropriate notification by the customer within the warranty period of 24 months from acceptance, defects of the supplied software including the manuals and other documents of CMLog will be remedied. This is done at the option of the CMLog by free of charge (rework) or replacement delivery. The expenses required for this purpose are borne by the CMlog. The place of performance is in any case Bremen.

b) If the defect can not be remedied within a reasonable period of time or if the rectification or replacement delivery has been found to be unsuccessful for other reasons, the customer can himself remedy the defect and demand compensation for the necessary expenses, reduce the fee, Damages or replacement of futile expenses. The two last-mentioned claims are detailed below under 12). The right of the customer to the advance of costs for self-extinguishing the defect clearance pursuant to § 637 paragraph 3 of the Civil Code is expressly excluded.

c) Failure of the rectification or replacement delivery shall only be deemed to have been given if the CMLog has been given sufficient opportunity to rectify the defect (3 attempts) or replacement delivery if it is impossible if the CMLog refuses or is unreasonably delayed or unacceptable for other reasons

present.

12) <u>Liability</u> <u>and</u> <u>warranty</u>

a) CMLog is only liable for damage caused by gross negligence or willful intentional damage caused by it or its fulfillment to the amount of the purchase price paid by CMLog.

b) In the case of loss or damage to data or data carrier material, the obligation to replace does not include the recovery of lost data. Furthermore, claims for damages against CMLog - for whatever reason - are excluded to the extent permitted by law. This includes, in particular, consequential damages (such as loss of profit, business interruption, loss of business information or other financial loss).

c) All claims for compensation against CMLog, company employees or any other means of performance or performance shall become statute barred after 12 months from the occurrence of damage. Exceptions are claims from offenses, here the statutory statutory provisions apply. If the customer has contributed to the formation of a damage by culpable behavior, the extent to which CMLog and the customer are to bear the damage is determined by the principles of contributory negligence (§ 234 BGB).

d) Any warranty is excluded for consequences resulting from changes to the software made by the customer or a third party or by improper handling or incorrect operation of the software. CMLog shall in no event be liable for any loss or damage resulting from the installation or operation of the delivered software.

e) CMLog shall not be liable for damage caused by force majeure, turmoil, war or natural disasters or other incidents (eg strike, lock-out, traffic disruption) which are not foreseen by the CMLog.

f) The place of warranty is Bremen/Germany (Bring-In Service).

13) <u>Secrecy</u> <u>and</u> <u>obedience</u>

a) The contracting parties undertake to keep all information on the contract partner kept in this contract secret. This applies in addition to the company's organizational procedures, especially for all information which is described as confidential or recognizable as business and business secrets. The obligation to secrecy shall be waived if and insofar as the information has become generally known or has already been known to the other party without a breach of contract by the other party being the cause.

14) <u>Other</u> <u>agreements</u>

a) Place of performance is Bremen/Germany.

b) Jurisdiction is, to the extent legally permissible, Bremen/germany.

c) Should a provision of the contract or these conditions be or become invalid in whole or in part, the validity of the contract and the above conditions shall remain unaffected. The ineffective provision or condition shall be effectively replaced by one which comes closest to the ineffective content.

Bremen, 2010/01/01