

## Terms and Conditions for the Development of Studies or Specifications

These Terms and Conditions may be used for contracts in which Vector shall first, or only, develop a specification or a study/concept, before Vector possibly then also develops the software for the client (in the following "Client") based on such specification.

A study could also be a concept as to how to perform certain actions.

### **§ 1 Scope of the Contract**

Vector shall develop the study or specification (in the following "work") as specified in writing, on the basis of Vector's rules for development and documentation, following the current state of the art.  
The requirements defined pursuant to § 2.3 (final specification) and § 4.2 shall be binding.

### **§ 2 Performance**

- 2.1 Vector shall name a project manager, Client shall name a representative. Both shall promptly give on their authority or provide all authorizations required. The Vector's project manager shall record all decisions in writing. The representative shall be available to Vector to provide all information required. Vector shall contact the representative as required to insure the proper performance of the mutual obligations.  
The Client representative and the Vector's project manager shall remain under the sole control and authority of their respective employer.
- 2.2 In concert with Client, Vector shall prepare a detailed time schedule for the performance of the tasks at the beginning of the performance and revise it from time to time if necessary.
- 2.3 Client shall examine all planned interim results and comment on them in writing within two (2) weeks. In addition, Client shall participate in planned reviews and other interim audits. Vector shall deliver pertaining material in advance. Client shall give its opinion to these audits in writing within one (1) week after their completion. Approved interim results shall be the binding basis for the further work. The agreed on timelines may be modified by Vector in the detailed time schedule in concert with Client.  
  
Failing to comment the planned interim results or the interim audits within the above mentioned timeframe, Client shall be deemed to agree with such results or audits, so that they could be binding basis for further work.
- 2.4 The services shall be performed at Client's location if necessary. In this event Client shall provide Vector sufficient access to the required IT-system for developing and testing. Client shall ensure that qualified operating staff are available by the time of performance at the latest.

### **§ 3 Rights of Use**

- 3.1 In consideration of the sums payable to Vector according to §6, all rights (notably the right to use, reproduce, represent, distribute, sell, copy) in the work shall accrue to Client.
- 3.2 It is expressly agreed that Vector shall not be restricted to use the gained know-how and to perform work in the same application area as the work performed for Client, provided that Vector complies with § 10.

### **§ 4 Change Request**

- 4.1 If Client requests Vector to undertake a change of the specified work, including an addition to it, and if the requested change is reasonable and acceptable, Vector shall agree. If the realization of such a request results in any burden on Vector's side, Vector is entitled to an appropriate adaptation of the terms of the contract, in particular to the extension of time for the completion of the work and/or to additional compensation.
- 4.2 Changes and resulting adaptations of the terms of the contract must be confirmed in writing by both parties. If Client requests a change orally, Vector may request Client to deliver it in writing, or Vector may confirm it in writing itself. In the second event the wording of Vector's confirmation shall be deemed to express Client's request correctly unless Client objects in writing without delay.
- 4.3 Vector shall submit its request for adaptation without undue delay. Client shall notify Vector within 5 (five) business days following the receipt of Vector's request if Client disagrees with the requested adaptation. Failing to inform Vector of such a refusal within this timeframe, Client shall be deemed to agree with the requested adaptation.

### **§ 5 Delivery and Acceptance**

- 5.1 Client shall confirm the receipt of the work in writing.
- 5.2 Client agrees to examine the work and to confirm its acceptance in writing if it meets the final agreed on specification. Unless otherwise agreed, the acceptance test period shall be two (2) weeks.
- 5.3 In any event, Client is deemed to have accepted the work if the use of the work has not been substantially restricted by a reported defect after the end of the agreed on acceptance test period.



## § 6 Charges and Payments

- 6.1 If it is agreed to remunerate Vector on the basis of time consumed, working time, travelling expenses and incidental expenses shall be paid in accordance with Vector's price list. Vector may submit invoices on a monthly basis.
- 6.2 In case the value of an order exceeds EUR 25,000.00, a fixed price shall be paid as follows, unless otherwise agreed:
- 30 % with the conclusion of the contract,
  - 50 % with delivery,
  - 20 % with acceptance of the work.
- All support (including specifically installation, brief or extended training, consultancy) shall be reimbursed separately unless it is expressly included in the fixed price.
- 6.3 Payments shall be made in full, without deductions, 30 days as from the invoice date.
- 6.4 Packing and shipping costs, duties, taxes and levies including VAT - if applicable - shall be paid by Client on all prices.

## § 7 Vector's Claims, Vector's Delay

- 7.1 In the event of any circumstances for which Vector is not responsible and which adversely affect the performance of the contractual obligations, including strike and lock-out, Vector is entitled to an appropriate adaptation of the terms of the contract, in particular to an appropriate extension of the delivery date. If the cause is attributable to Client and results in additional efforts to Vector, Vector is also entitled to additional compensation.
- 7.2 In other event, if Vector's delay exceeds 30 days, Client is entitled for every subsequent week to a penalty of 0,5 % of the value of that part of the works that cannot be used in accordance with the purpose of the contract, but the penalty shall be limited to 5 % of the total contract value.

## § 8 Warranty

Client shall report defects with a reasonable substantiation. Vector shall correct defects reported during the legal period of warranty, as specified in §9.2, within a reasonable period of time and at no costs to Client.

Defects are defined as deviations from the features the work shall have as specified in writing, on the basis of Vector's rules for development and documentation, following the current state of the art.

## § 9 Vector's Liability

- 9.1 If Vector is in delay with its primary performances (through delivery) or subsequent performances (through correction of defects), Client is entitled to ask for them within an adequate period of time. If Vector definitely fails to effect the primary or the subsequent performance, in particular to cure the breach of contract within the notified period, Client may exercise its statutory rights, claims for damages only within the limitations pursuant to § 9.3. Vector may set a period within which Client must declare whether or not Client still requests primary or subsequent performance. If Client does not request primary or subsequent performance within this period, Client cannot claim for it any longer.
- 9.2 The period of warranty (the limitation period for claims based on defects) shall be twenty-four (24) months.
- 9.3 To the maximum extent permitted by applicable law, Vector - including any person engaged in performing any obligation under this contract - shall be liable for direct damages under any claim based on normal negligence only if Vector breaches a basic obligation which jeopardizes the contract goal (cardinal obligation). In no event will Vector - including any person engaged in performing any obligation under this contract - be liable for any indirect damages, such as lost profits or revenues. In this event Vector's liability shall be restricted to (i) EUR 100,000.00 (one hundred thousand euros) or (ii) the contract value, whichever amount is higher. Client may claim for a higher maximum, but Vector may then require a surcharge for the aggravated risk.

The restrictions shall not apply to the extent the damages are covered under Vector's business liability insurance and provided that the insurance company has effected payment to Vector. Vector agrees to maintain the coverage of the business liability insurance as provided at the time of the execution of the contract.

Claims for personal injury, claims resulting from gross negligence or willful misconduct shall remain unaffected.

## §10 Confidentiality

- 10.1 Vector shall keep Client's trade and business secrets confidential, as well as all other information obtained by Vector under or in connection with this contract, designated in writing as confidential by Client. Vector shall have no obligation with respect to any information (i) already in Vector's possession at the time of the execution of the contract, (ii) independently developed by Vector, or (iii) publicly known through no wrongful act of Vector. This obligation shall last two (2) years after termination, for any reason, of the contract.
- 10.2 Notwithstanding the terms of § 10.1, Vector is not obliged to keep confidential any ideas, concepts, know-how or techniques related to Vector's development of software.



- 10.3 Vector shall oblige its employees to adhere to the above confidentiality obligations.
- 10.4 Unless special disapproval in writing from Client, Vector may enter Client's name into its list of customers together with a short description of the rendered performance. All other advertising references that Client is Vector's customer are subject to Client's prior approval.  
In case of Client's refusal, VECTOR shall remove any reference to the Client from its list of customers within ten (10) days.

#### **§11 Miscellaneous**

- 11.1 The contract shall constitute the entire agreement between the parties and shall not be altered, amended or cancelled, except in writing and with the consent and signature of all parties concerned.
- 11.2 The contract shall conform with and be governed by the laws of France without regard to its choice of law rules and excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods.  
If Client is merchant in terms of law exclusive venue for any claims between the parties shall be the Courts of Paris, FRANCE, and the parties agree to submit to the exclusive jurisdiction of such courts.