

## General Terms and Conditions – Consulting Services

### 1 Scope

- 1.1 These General Terms and Conditions (the “GTCs”) shall govern any agreements between OQTOTEC GmbH, Neufeldstrasse 3, 8154 Oberglatt, Switzerland (“OQTOTEC”) and Customer with regard to consulting services OQTOTEC will provide to Customer.
- 1.2 These GTCs will apply to all Individual Agreements between OQTOTEC and the Customer regarding Services, even if such Individual Agreements do not explicitly refer to these GTCs. No Customer standard agreements, general terms or similar documents provided by Customer shall be applicable to Services provided by OQTOTEC.
- 1.3 Except as expressly set forth in these GTCs and/or the relevant Individual Agreement, in the event of any conflict or inconsistency between the GTCs and any Individual Agreement, the terms of the Individual Agreement shall prevail and govern.

### 2 Definitions

- 2.1 **Confidential Information-** means all information, documents, records and/or data which the disclosing Party at the time of disclosure has designated to be confidential or which, given its nature and circumstances of disclosure, ought to reasonably be considered confidential, in particular all information relating to any client of the Customer and all information which is considered as being confidential under applicable banking laws.  
Information is not considered Confidential Information in the event the information in question:
  - (i) is approved for public release by written agreement of the discloser;
  - (ii) is already rightfully known to the recipient free of any restriction at the time it is obtained from the disclosing Party;
  - (iii) is subsequently disclosed to the recipient lawfully by a third party without imposing any restrictions whatsoever;
  - (iv) is or becomes public knowledge; or
  - (v) is developed independently by one Party without referring to Confidential Information belonging to the other Party.
- 2.2 **GTCs** – means the present General Terms and Conditions.
- 2.3 **Individual Agreement** – means a consulting agreement between the Parties which is made pursuant to these GTCs. The Individual Agreements will contain all relevant details such as a description of the Services, allocated resources, time schedule, place of performance, applicable fees, service hours, duration of engagement etc.
- 2.4 **Pre-Existing Material of OQTOTEC** means materials, data, developments, inventions, trademarks or other intellectual property of OQTOTEC created or acquired outside of the provision of Services, including any further developments, amendments or enhancements thereof. Any such material, if relevant in connection with the Services, will be subject to separate agreements.
- 2.5 **Services** – means the consulting services (i.e. services under a mandate as per Articles 401 ff. of the Swiss Code of Obligations) OQTOTEC is providing to Customer as per the relevant Individual Agreement.

### 3 Obligations of OQTOTEC

- 3.1 OQTOTEC shall be under the obligation to perform the Services as specified in the relevant Individual Agreement.
- 3.2 OQTOTEC shall provide its Services remotely and/or at Customer’s premises identified in the relevant Individual Agreement, as a particular activity related to the Services may require.
- 3.3 The time schedules and milestones specified in an Individual Agreement shall only operate as binding due and delivery dates if explicitly identified as such in the relevant Individual Agreement.
- 3.4 OQTOTEC will use commercially reasonable endeavors to ensure a certain continuity with regard to the resources allocated to provide the Services as specified in the relevant Individual Agreement. To the extent reasonably possible and permitted by applicable legislation, OQTOTEC shall take into account Customer’s reasonable and legitimate interests when assessing its employees’ vacation requests.
- 3.5 Subject to Customer’s prior written consent, OQTOTEC is entitled to, with regard to the fulfillment of its obligations under these GTCs and the relevant Individual Agreements, contract with and use subcontractors, agents and/or other third parties.
- 3.6 OQTOTEC is an independent contractor.
- 3.7 OQTOTEC shall be solely responsible for paying any social security contributions and applicable taxes relating to its employees.

### 4 General Obligations of Customer

- 4.1 Customer commits to OQTOTEC that OQTOTEC resources will, during the term of the relevant Individual Agreement, be consumed to provide the Services in an equivalent of the FTE percentage specified in the Individual Agreement (if any).
- 4.2 Customer undertakes to take all necessary and useful actions, preparations and/or precautions which can reasonably be expected from Customer in order to enable OQTOTEC to perform its obligations under these GTCs and the relevant Individual Agreement. In particular, this will include (but not be limited) to the following items: (i) the Customer is responsible for and will prepare all information, documents and other data OQTOTEC reasonably requires to provide the Services and will ensure that any such items are being made available to OQTOTEC in a timely, complete and accurate manner; (ii) the Customer will take all measures reasonably required to enable OQTOTEC to provide the Services or any portion thereof, as the case may, on-site at Customer’s premises or on Customer’s infrastructure (such as access to sufficiently equipped office space, communication infrastructure and Customer’s systems); and (iii) the Customer will grant OQTOTEC access to key employees and other members of staff as may be reasonably required to provide the stipulated Services.

### 5 Fees & Invoicing

- 5.1 Unless specified otherwise, OQTOTEC will provide its Services on a time and material basis at the rates specified in the relevant Individual Agreement and will invoice

Customer on a monthly basis for the Services provided based on the time sheets submitted to Customer.

- 5.2 All of OQTOTEC's fees and rates specified in the Individual Agreements and/or other documentation are in Swiss Francs (CHF) and do, unless specified otherwise, not include expenses, VAT and other applicable taxes.
- 5.3 Unless specified otherwise in the relevant Individual Agreement, OQTOTEC shall be entitled to charge to Customer all expenses reasonably incurred in relation to the Services plus the travel time to Customer's or other premises, as required.
- 5.4 All charges shall become due for payment within thirty (30) days as from the invoice date.
- 5.5 If Customer is in disagreement with an invoice submitted by OQTOTEC or any portion thereof, Customer will notify OQTOTEC accordingly.

## 6 Warranties

- 6.1 OQTOTEC will perform the Services as specified in the applicable Individual Agreement faithfully, with due care and in accordance with customary, recognized industry standards.
- 6.2 OQTOTEC and Customer each represent and warrant that they have all necessary rights and full authority to enter into the relevant Individual Agreements and to perform their respective obligations under such arrangements without violating or infringing any third-party rights.

## 7 Liability

- 7.1 OQTOTEC shall indemnify, defend and hold harmless the Customer and its affiliates from and against any and all third party liability resulting from the negligence, willful misconduct or breach of this Master Agreement and/or any Individual Agreement by OQTOTEC or by the employees, officers, directors, subcontractors as well as other auxiliaries, consultants, agents and representatives of OQTOTEC.
- 7.2 OQTOTEC shall not be liable to the Customer for loss of profits or revenue loss, indirect or consequential loss, unless caused by gross negligence or willful misconduct.
- 7.3 For the avoidance of doubt, it is understood that any acts and omissions of OQTOTEC's affiliates as well as its subcontractors, consultants, and agents involved in the completion of any Services shall be deemed to be acts and omissions of OQTOTEC and OQTOTEC shall be and remain fully responsible for such acts and omissions, irrespective of Customer's prior written approval to the use of such affiliates or third parties for the performance of the Services

## 8 Confidentiality

- 8.1 Each Party shall keep Confidential Information of the disclosing Party in strict confidence and shall safeguard such Confidential Information from unauthorized disclosure, reproduction or use no less rigorously than the stricter of the standards that would apply to its own Confidential Information of similar nature and the standards required by applicable law and regulatory requirements.
- 8.2 Both Parties agree not to disclose Confidential Information to any third parties without the other Party's prior written consent. However, both Parties shall be entitled to on a "need-to-know" basis share Confidential Information without prior written consent of the other Party (i) with employees, subcontractors and/or other third parties to the extent such individuals need to know such Confidential Information in connection with the performance of rights and obligations as per this GTCs and/or the relevant Individual Agreement; and

(ii) with a third party which is to perform legal, accounting or audit services for or in relation to a Party in assessing its business operations. For the avoidance of doubt, such disclosure shall only be permitted to the extent any such individual is subject to confidentiality obligations no less rigorously than those applicable contained herein.

- 8.3 OQTOTEC shall ensure that the Confidential Information is made available only to the minimum number of its employees and consultants, as well as auxiliaries or subcontractors. OQTOTEC shall make such employees and consultants, as well as such auxiliaries or subcontractors aware of its obligations of confidentiality under any agreement with the Customer and shall at all times procure compliance by such employees and consultants as well as such auxiliaries or subcontractors in respect of such obligation of confidentiality.
- 8.4 Except as otherwise provided herein, a Party may disclose the Confidential Information of the other Party to the extent, but only to the extent, required by law, regulation, rule, act, order, or request of any court, governmental authority or agency, self-regulatory organization or exchange, including but not limited to any subpoena, civil investigative demand, or discovery request or demand, provided such Party gives the other Party (to the extent not prohibited from doing so) prompt written notice and cooperation in seeking to limit the disclosure to the greatest extent possible, consistent with the legal obligations of the Party required to disclose the Confidential Information, and in obtaining confidential treatment for such information, if available.
- 8.5 Each Party shall immediately notify the other Party if it becomes aware of
  - (i) any potential disclosure, access to or use of any Confidential Information in breach of this section 8;
  - (ii) any unauthorized intrusion into systems containing Confidential Information; and
  - (iii) any disclosure of any Confidential Information where the purpose of such disclosure does not have any apparent correlation with the execution of these GTCs and/or the relevant Individual Agreement.

Both Parties will give reasonable assistance to the other in order to prevent such breach of confidentiality and/or limit the consequences thereof.

- 8.6 The confidentiality obligations specified in this section 8 will continue to apply even after termination or expiration the relevant Individual Agreement.

## 9 Intellectual Property

- 9.1 Except to the extent that deliverables resulting from the Services performed by OQTOTEC under an Individual Agreement, if any, may incorporate any Pre-Existing Material of OQTOTEC, any such deliverables by OQTOTEC shall be the sole and exclusive property of Customer.

## 10 Term and Termination of Individual Agreements

- 10.1 An Individual Agreements enters into force when duly signed and executed by both Parties. If the Individual Agreement is entered into for a specific term, such term shall be specified in the relevant Individual Agreement.
- 10.2 Either Party may terminate an Individual Agreement at any point in time by submitting a written termination notice to the other Party at least three (3) months prior to the envisaged termination date. The Parties agree that any termination of an Individual Agreement by Customer, which is not subject to section 10.3 and becomes effective at a point in time before OQTOTEC can reasonably downsize its engagement

in the affected project and reallocate its resources to projects with other clients shall be deemed an inopportune termination as per Article 404 section 2 of the Swiss Code of Obligations, it being understood that in the opinion of the Parties such reasonable downsizing period under normal circumstances is three (3) months.

- 10.3 Notwithstanding any of the provisions of these GTCs and the relevant Individual Agreement, an Individual Agreement may be terminated by either Party at any time and with immediate effect by issuing a written notice to the other Party (i) upon material and persistent breach of these GTCs and/or the relevant Individual Agreement in such manner, that the terminating Party may not reasonably be expected to continue to be bound to the Individual Agreement in question, provided however that the Party in breach has failed to remedy such breach within a reasonable period of time after receipt of a written notice specifying the nature of the breach. A Party may refrain from granting a reasonable period of time for remedy if and to the extent such breach from an objective point of view is not reasonably to be considered capable of remedy; (ii) in the event of insolvency of the other Party as well as the initiation of bankruptcy proceedings, a moratorium on debt enforcement or similar proceedings (including rejection thereof due to lack of assets) against the other Party.

## 11 Miscellaneous

- 11.1 OQTOTEC shall be entitled to use Customer's name as a reference and for marketing purposes. OQTOTEC shall, subject to the prior written consent by Customer, be authorized to, for the sole purpose of supporting such marketing initiatives, use Customer's company name and/or logos, it being provided that any such use shall be in compliance with Customer's branding and similar guidelines communicated to OQTOTEC in writing. Customer may at any time revoke its approval and in such case OQTOTEC shall immediately cease to use Customer's name.
- 11.2 Neither Party shall assign or delegate any of its rights, duties or obligations under these GTCs and the relevant Individual Agreement without the prior written consent of the other Party, which consent shall not unreasonably be withheld or delayed.
- 11.3 If any provision of these GTCs and/or an Individual Agreement is for any reason held to be invalid, illegal or unenforceable, the remaining provisions shall be unimpaired, and the invalid, illegal or unenforceable provision shall be replaced by a valid, legal and enforceable provision that to the highest extent reasonably possible achieves the original intention of the Parties. This section shall apply accordingly if these GTCs and/or the relevant Individual Agreement is silent on an issue to be resolved.
- 11.4 Additions, modifications, supplements and/or amendments to a particular Individual Agreement (including this section 11.4) may, unless specified otherwise, only be made in writing and if authorized by both Parties.
- 11.5 Nothing in these GTCs and/or an Individual Agreement shall constitute or be deemed to constitute between the Parties a joint venture, partnership, employment relationship or staff loaning.
- 11.6 These GTCs and all Individual Agreements concluded thereunder shall exclusively be governed and construed in accordance with the substantive **laws of Switzerland**, whereby international conventions, including the United Nations Convention on Contracts for the International Sale of Goods of 11.04.1980 (CISG) and/or standard conflict of law rules are hereby excluded from being applicable.
- 11.7 The ordinary courts of the Canton of Zurich shall have exclusive jurisdiction with regard to all disputes arising from or in connection with these GTCs and/or the relevant Individual Agreements. **The exclusive place of jurisdiction is Zurich/Switzerland.**