

# **Terms and Conditions**

*Professional Services*

**Helm & Nagel GmbH**

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## 1 Scope

1. The following contractual terms and conditions of Helm & Nagel GmbH (manufacturer) for the provision of services shall apply to all to all contractual relationships with customers in connection with consulting, factory and support services and other services which go beyond the provision of the standard software and software maintenance, and shall be and shall be deemed to be an integral part of the contract, unless otherwise agreed in writing in an individual the customer in writing.
2. General terms and conditions of a customer that deviate from, contradict or supplement these general terms and conditions of of a customer deviating from, contradicting or supplementing these general terms and conditions of and in writing. This requirement of consent shall apply in any case, in particular also if the the manufacturer carries out a delivery or service to the customer without reservation in the knowledge of the customer's unconditionally.

## 2 Prices

1. Unless otherwise agreed in the order confirmation, services shall be charged according to actual expenditure hourly rates of the manufacturer valid at the time of performance per hour worked. charged.
2. Furthermore, in the case of on-site appointments, the customer shall bear the costs for travel to and from the site, expenses and overnight stays in accordance with the price list of the Contractor and Para. 3 of these General Terms and Conditions of Service.
3. Travel
  1. Payment for travel to and from on-site appointments shall be made on a time and material basis.
  2. Travel time will be charged at half the applicable hourly rate for the relevant service.
  3. In case of arrival/departure by car, a kilometre rate of 0.50 Euro will be charged. The travel distance will be via navigation software on the shortest route between the manufacturer's head office and the place of determined.
  4. Air and rail travel will be charged according to the costs incurred for business class air tickets and 1st class rail travel according to charged according to expenditure.

## 3 Delivery time

1. The manufacturer is entitled to make partial deliveries or provide partial services at any time, insofar as this is reasonable for the customer. reasonable for the customer.

## 4 Services of the manufacturer

1. The manufacturer provides configuration, software development and consulting services as well as consulting services, as well as conceptual work and factory services.
  1. These services are provided from the manufacturer's headquarters or on site at

the customer's premises.

2. The Manufacturer shall provide the Services to the best of its knowledge.

## 5 Software customisation and software development

1. The specifications agreed by both parties as an integral part of the contract shall be decisive for the services to be rendered. Amendments or supplements to the specifications must be agreed in writing, which must also include the financial effects of the amendments or supplements. financial effects of the changes or additions are to be regulated.
2. If, due to the complexity of the development of the order, deadlines are exceeded, additional deadlines are to be agreed. technical problems that have arisen or possible delivery difficulties. delivery problems. Requests for changes or additions by the customer shall postpone agreed deadlines in accordance with the additional additional expenditure caused thereby.
3. After delivery of the results, acceptance shall take place in accordance with the following regulations.
  1. The acceptance of software adaptations and software developments (individual software) takes place on the basis of the functional test routines by the manufacturer.
  2. A protocol is drawn up on the acceptance, which is to be signed by the customer. Defects recorded there will be eliminated free of charge by the manufacturer.
  3. If there are no serious defects, or only defects that can be rectified in a reasonable manner, and the customer does not declare the customer does not declare acceptance within 30 days, the service shall be deemed to have been accepted.

## 6 Configuration and installation work

1. Configuration and installation work is always carried out remotely.
2. For the necessary access to the relevant systems of the customer, the manufacturer may, at his reasonable discretion the way in which this is to take place, as long as it can be classified as secure according to the state of the art.
3. The customer is responsible for providing access to the systems. This includes among other things Opening ports, setting up user accounts for the manufacturer in his environment, if necessary creating a VPN tunnel and installation of specific software and its configuration according to the manufacturer's instructions.
4. The requirements are documented in the respective current system description of the manufacturer.

## 7 Consulting services

1. Consultancy services are always provided by telephone or via web conference.
2. On-site appointments may be requested by the client upon quotation.
3. The manufacturer participates in the acceptance process. This includes corrections and adjustments, provided that the basic requirements do not significantly change the performance.

## 8 Copyright and rights of use

1. For the software created according to the customer's requirements, the sole copyright and right of exploitation as well as the intellectual property remains with the manufacturer.
2. The knowledge acquired in consulting services may be used by the manufacturer without restriction, while preserving the anonymity of the customer and the agreed confidentiality. and the agreed confidentiality.
3. Concepts and documentation created from consulting services remain the intellectual property of the manufacturer and may only be used by the customer with the express permission of the manufacturer. passed on by the customer to third parties only with the express permission of the manufacturer and with the third parties. In doing so, they must be clearly marked as having been created by the manufacturer.

## 9 Warranty for material defects and defects of title

1. Insofar as the prerequisites of para. 5.1-3 of the General Terms and Conditions apply, the risk of accidental loss or accidental deterioration of the subject matter of the contract shall or accidental deterioration of the subject matter of the contract shall pass to the customer at the point in time at which the customer has default of acceptance or debtor's delay.
2. The same as 12.1 shall also apply after acceptance has taken place or the agreed service has been completed or the agreed hours of work have been performed. performance of the agreed hours of work.
3. The warranty for material defects and defects of title is regulated in the General Terms and Conditions para. 11.

## 10 Liability

1. Liability for the correct use of the service results is excluded. This is the sole responsibility of the customer.

## 11 Obligations to return contractual software

1. No separate return obligations arise from the service contract.

## 12 Other provisions

### 12.1 References

1. The manufacturer is granted the right to name the customer and the organisations entitled to use the product within the scope of the indication of references, also using the logo.

The manufacturer is also permitted for advertising purposes, a screenshot of the application for advertising purposes, provided that it is ensured that no confidential information or personal data can be seen. personal data are visible.

2. The customer and the organisations entitled to use the application shall allow the manufacturer to publish a press release as well as the naming with company logo on the manufacturer's websites. The persons and/or and/or organisations named in the press release shall be involved in the preparation of the press release and thus prior to publication.
3. The producer is aware of the reputation attached to the names of the organisations entitled to use the press release and undertakes not to use its rights referred to in paragraph 1 to the detriment of the organisations entitled to use them. organisations.

## 12.2 Confidentiality agreement

### 12.2.1 Preamble

The following confidentiality agreement of Helm & Nagel GmbH (HN) shall apply to all contracts with customers. The manufacturer and the customer are also referred to in the following as party or parties.

### 12.2.2 Scope

1. The parties undertake to treat as confidential all information made available in the course of the execution of a contractual relationship.
2. The parties undertake to instruct their personnel accordingly and to oblige them to comply with the agreement. and to oblige them to comply with the agreement separately in text form.
3. The parties undertake not to disclose information to be kept secret to third parties. No third parties are to be entered into with the customer within the meaning of § 271 HGB (German Commercial Code), §§ 15 ff. AktG (German Stock Corporation Act) or the respective applicable applicable corporate law provisions, provided that they have been obligated to maintain confidentiality. confidentiality.
4. Excluded from this is information which is publicly known without the recipient's intervention or which has become publicly known after the conclusion of this agreement. of this agreement; was already known to the recipient prior to the commencement of the business relationship, without this information being relationship without this information being subject to any other confidentiality obligation; is disclosed to the recipient by a third party without has been made known to the Recipient by a third party without a breach of a confidentiality obligation; or has been disclosed by the developed independently by the recipient without the use of confidential information.
5. The customer is obliged to keep confidential all knowledge of data security measures of HN obtained within the scope of the contractual relationship. data security measures of HN confidentially. This obligation remains in force even after termination of this contract.
6. The customer shall treat as strictly confidential all information made accessible to him in the course of the execution of this contractual relationship and which goes beyond the purely external appearance of the software as well as the mere the mere listing of the scope of functions. This applies in particular to information about methods and methods and procedures used by HN as well as information concerning the software. The customer is furthermore obliged to maintain secrecy vis-à-vis third parties, also by his employees, in particular to prevent unauthorised access to the software by third third parties to the software and related information by taking suitable precautions.

## 12 Other provisions

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7. The parties undertake to notify each other immediately upon becoming aware of a breach of the agreed secrecy obligations, confidentiality obligations and to provide all reasonable assistance in connection with all proceedings in this connection, in connection therewith.
8. At the end of the contractual relationship, the parties shall, without being asked to do so, return all confidential information provided or destroy/delete such information, information provided or destroy/delete it in accordance with data protection regulations and provide each other with a written certificate of written certificate upon request.
9. Should a court or an authority demand the disclosure of confidential information from a party, the affected party, in the course of a proceeding, the parties shall be obliged to do so. party, the affected party shall inform the other party without delay in order to give the other party the opportunity to disclose confidential information, party to give the other party the opportunity to seek appropriate remedies or take other protective measures, take other protective measures. Upon request, the affected party shall assist the other party in taking such action, assist the other party in such action. If such measures are waived or are unsuccessful, the affected Party may disclose Confidential Information without breach of this Agreement. Such disclosure shall be made only to the extent extent required by law, and the Covered Party shall use its best efforts to maintain the confidentiality of the information to be disclosed.
10. The obligation of confidentiality shall continue beyond the duration of the Agreement until twelve months after the effective effective termination date of the contract.