



## **A.1. General Terms and Conditions of Eraneos**

### **1 Preamble**

- 1.1 Eraneos Switzerland AG (hereinafter called the Firm) provides consulting and engineering services for its clients.
- 1.2 Due to the nature of these activities, however, a special relationship of trust between the Client and the Firm is justified. These General Conditions of Business are intended to create a secure basis for such mutual trust by means of provisions that are open, balanced and fair.

### **2 Applicable law**

- 2.1 The legal relationship between the Client and the Firm shall be governed by:
- the concluded contract
  - these General Conditions of Business
  - Swiss law.
- 2.2 Subject to the overriding conditions of Swiss statutory law, the order stated above shall be the order of priority where individual conditions are contradictory.

### **3 Responsibilities of the Firm**

- 3.1 The Firm shall provide its services:
- according to the best of its knowledge and ability for the purpose of fulfilling the intentions of the Client,
  - within the limits and scope of the contract, and
  - for the agreed fee.
- 3.2 The Firm shall conduct its activities as the entrusted agent of the Client and shall recognize the special responsibility associated with these activities. The Firm shall accept no favour whatever from any third party, such as manufacturers or suppliers, and shall accept fees for its services exclusively from the Client.
- 3.3 The Firm shall also act with due recognition of its responsibility towards the public, the legitimate interests of third parties and the environment. In its role as an intermediary between the Client on the one hand and manufacturers and suppliers on the other, honesty and fairness shall be the basic principles governing its behaviour.

### **4 The Firm's power of attorney**

- 4.1 The activities conducted by the Firm on behalf of the Client towards third parties such as the authorities, manufacturers, suppliers and engineers shall be legally binding insofar as these activities are normally directly associated with the performance of the contract.
- 4.2 The Firm shall obtain instructions from the Client when taking legal precautions or making arrangements which could affect schedule, quality or costs.
- 4.3 As a rule, the Client shall not give direct instructions to third parties. Failing this, if such instructions are given, the Client shall inform the Firm immediately. The Firm shall draw the Client's attention to the consequences of his instructions and shall advise him against making inappropriate arrangements.



## **5 Rights to the work results**

- 5.1 On payment of the fee, the Client shall be entitled to make use of the results of the work carried out by the contracted party for the agreed purpose. Any further use outside the scope of the contract is not permitted, in order to protect the Firm's know-how and the services already provided.
- 5.2 The intended purpose of the work performed by the Firm will be defined in the contract between the Client and the Firm. In special cases, in addition to the contractual wording, the adequacy of the fee with respect to the intended purpose shall also be a decisive assessment criterion.
- 5.3 The Firm shall retain the proprietary rights to its work insofar as other provisions are not explicitly covered in the contract. The proprietary rights to the results of work which have been achieved jointly by the Client and by the Firm shall be held by both contracting parties.
- The term "proprietary rights" shall, in particular, cover the copyright and the right to further use and exploitation of the work results. Rights covered by the provisions contained in Section 7 (Commitment to confidentiality and trust) shall, however, be excluded.
- 5.4 The Firm shall publish its work only with the explicit agreement of the Client, provided that the interests of the Client are upheld. Equally, publication by the Client shall also require the agreement of the Firm. In such a case, appropriate reference shall be made to the role of the Firm as the originator.

## **6 Liability of the Firm**

- 6.1. The Firm can be held liable to the Client for damages due to breach of contractual commitment either directly or by a third party assigned by the Firm, provided that the respective third party is not an unskilled labourer and that the Client proves that such damages are attributable to gross negligence or deliberate action by the Firm or the assigned third party. Exemption from liability based on Art. 399 par. 2 of the Swiss Code of Obligations is reserved. All liability is excluded for damages attributable to slight negligence. All liability is excluded for damages attributable to unskilled labourers employed by the Firm.
- 6.2. Under no circumstances can the Firm be held liable for:
- arrangements insisted on by the Client despite advice to the contrary, as well as for instructions passed directly to third parties by the Client;
  - services and deliveries of third parties acting in a direct contractual relationship with the Client;
  - financial losses incurred due to an overrun of cost estimates or a failure to meet deadlines.
- 6.3. Moreover, as far as legally admissible, the Firm cannot be held liable for damages or loss of earnings attributable to data loss. All complaints that might lead to liability claims against the Firm shall be reported to the Firm in writing without delay.

## **7 Commitment to confidentiality and trust**

- 7.1 All documentation related to the contract, such as studies, planning documents, minutes, calculations, etc., and entrusted by the Client and the Firm to one another shall be used by the recipient within the scope of the contract only and shall be treated as confidential. Should it become necessary to entrust such documents to a third party for the purposes of fulfilling the contract, the said third party shall likewise be bound by this condition.
- 7.2 Should either contracting party, during the preparation or performance of the contract, become privy to facts which said party knows or, in the circumstances, is lead to presume that it is the wish of the other party that such facts are to be kept away from third parties, said party shall be committed to confidentiality with regard to these facts beyond termination of the contractual relationship.



## **8 Fees and conditions of payment**

- 8.1 Fees shall be governed in the contract between the Client and the Firm.
- 8.2 Additional expenditure shall be compensated in addition to the agreed fee. In the absence of a further agreement, the provisions governing additional expenditure according to Section 9 shall be applied.
- 8.3 Cost offsetting is in all cases prohibited.

## **9 Additional expenditure**

- 9.1 For journeys within Switzerland greater than 15 kilometres on the shortest route from the place of domicile of the contracted party, first-class rail tickets shall be charged at half price, regardless of the actual means of transport employed.
- 9.2 For changes in location which must, of necessity, be undertaken by car (transport of goods, exceptional time restrictions, etc.), expenses will be calculated on the basis of the route effectively covered. Thereby CHF 0.70 will be charged per kilometre.
- 9.3 Further travel expenses will be charged according to the actual expenditure incurred, while maintaining a sense of proportion at all times.
- 9.4 Journeys abroad shall require the permission of the Client. The effective journey costs will be charged.
- 9.5 The cost of documentation such as printing and binding, plan copies, photographic work, etc., will be charged at the actual costs incurred.
- 9.6 The tariffs according to the contract are also applied to internally produced copies, print-outs etc.
- 9.7 Administrative costs arising from domestic business dealings (postal and telecommunications) shall be free of charge. Expenses arising from international business dealings will be charged at the actual costs incurred.
- 9.8 For exceptional expenditure, agreements shall be made according to each separate case, with the actual costs to the Firm being reimbursed as a rule.

## **10 Notice of cancellation and termination**

- 10.1 Should the Client cancel the contract, the Client shall pay to the Firm the fees for services performed, and also all additional expenditure incurred up to the time of cancellation.
- 10.2 Should cancellation be ill-timed and no fault of the Firm, then the Firm shall be entitled to compensation for proven damage or loss amounting to not less than 10% of the fee due on the cancelled portion of the work.
- 10.3 Should the Firm give notice of cancellation of the contractual relationship, it shall be entitled to the fee and proven additional expenditure due for services performed up to this date. If notice of cancellation should be ill-timed, the Client shall be entitled to compensation for proven damage or loss.

## **11 Settlement of disputes**

- 11.1 The Commercial Court of the Canton of Zurich shall have jurisdiction in the settlement of disputes between the contracting parties.