

ICT~OFFICE TERMS AND CONDITIONS

Module 10 Other services

1. Applicability

- 1.1 The ICT~Office Terms and Conditions consist of the General module as well as one or more specific modules per product or service. The provisions of this module shall apply in addition to the provisions of the General module in the event that the Supplier provides services in the field of information and communication technology, such as, but not limited to, the management of ICT systems and related services.
- 1.2 The provisions of this module are inextricably linked with the provisions of the General module. In the case of conflict between the provisions of the General module and the provisions of this module, the latter shall prevail.

2. Services

- 2.1 The Supplier shall provide the Client with the services agreed between the parties.
- 2.2 If the Supplier's service consists of the management of one or more ICT systems referred to in the agreement and the content and scope of such management has not been determined or has not been determined to a sufficient extent in the sole opinion of the Supplier, the Supplier shall draw up a management plan for the purpose of executing the agreement and shall make this management plan available to the Client within a reasonable period of time. The management plan shall set out those areas on which the management activities will focus and the way in which the different types of management activities can be carried out. The management plan may, at the discretion of the Supplier, contain one or more of the following:
- a plan for the preventative, corrective and restorative maintenance of ICT systems
 - a plan for dealing with interruptions in service and complaints and reporting in this regard
 - a security plan
 - a plan for supporting users of the ICT systems
 - a plan for connecting new users to the ICT systems
 - a plan for training users of the ICT systems
 - a plan for the management and use of means of identification (passwords etc.)
 - a plan for licence and contract management
 - a plan for the management organisation and the administrative and financial aspects of the use of ICT systems.
- Following completion of the plan, the parties shall hold consultations to discuss the issue as to which of the management activities proposed by the Supplier will be carried out and the method by and the conditions under which these activities will be carried out.
- 2.3 The Supplier shall only be obliged to follow timely and well-founded instructions issued by the Client during the performance of the service if this has been agreed in writing. The Supplier shall not be obliged to follow instructions that change or extend the content or scope of the agreed service. If such instructions are followed, however, compensation shall be provided for the work in question in accordance with the Supplier's standard rates.
- 2.4 Even if the agreement for the provision of services has been entered into with a view to executing by a specific

individual, the Supplier shall at all times be entitled to replace this individual with one or more other individuals with the same qualifications following consultation with the Client.

- 2.5 The employees to be deployed by the Supplier shall hold the qualifications agreed in writing with the Client.
- 2.6 If the Supplier is providing services on the basis of information to be provided by the Client, this information shall be prepared by the Client in accordance with the conditions to be imposed by the Supplier and provided at the risk and expense of the Client. The Client shall at all times guarantee that all materials, information, software, procedures and instructions that it makes available to the Supplier for the purpose of providing the services is accurate and complete and that all data carriers issued to the Supplier meet the Supplier's specifications.
- 2.7 Except where explicitly agreed otherwise, the Supplier shall only perform the service during the Supplier's standard working days and times. This shall form the basis for the Supplier's schedules and other estimates.
- 2.8 If it has been agreed that the service will be provided in stages or if the Supplier is using a working method that is based on phased implementation, the Supplier shall be entitled to delay the start of the services associated with a stage until such time as the Client has approved the results of the previous stage in writing.
- 2.9 If the service provided to the Client includes the provision of support to users, the Supplier may impose conditions in relation to the qualifications and the number of contacts who are eligible for support and shall deal with properly substantiated requests for support within a reasonable period of time. The Supplier cannot guarantee the correctness, completeness or timeliness of responses or support provided. Except where agreed otherwise in writing, support shall only be provided on working days during the Supplier's standard business hours.
- 2.10 Except where agreed otherwise, the Client shall be responsible for the use of the service and the way in which the results of the service are used. The Client shall also be responsible for training given to and use by users, regardless of whether or not there is a relationship of authority between the Client and these users.
- 2.11 If the agreement stipulates that the service provided by the Supplier shall also include the provision of so-called 'standby services', the Supplier shall ensure that one or more members of staff are available during the days and times specified in the agreement. If this is the case, the Client shall be entitled to request urgent or immediate support from the members of staff on standby in the cases referred to in the agreement. The Supplier shall not guarantee that all failures will be rectified or the assistance provided by the experts called in will be effective should this situation arise.

3. Provision of services

- 3.1 The Supplier shall make every effort to ensure that the services are provided with due care and in accordance with the arrangements and procedures agreed in writing

- with the Client where applicable. The Supplier shall provide all services on the basis of a best efforts obligation, unless and in so far as the Supplier has explicitly undertaken in the written agreement to achieve a specific result and the result in question is sufficiently determined.
- 3.2 All hardware, software and items used by the Supplier in providing the service shall remain the property or the intellectual property of the Supplier, even if the Client pays a fee in respect of the development or purchase of these by the Supplier.
- 3.3 If the Client makes software, hardware or other machinery and equipment available to the Supplier in connection with the service provided by the Supplier, the Client shall be responsible for obtaining all necessary licences or approvals in relation to this machinery and equipment that the Supplier may require.
- 4. Service Level Management**
- 4.1 Any service level agreements shall in all cases only be entered into explicitly in writing. The Client shall notify the Supplier at all times of all circumstances that may affect the service and the availability of the service. If service level agreements are entered into, any periods of decommissioning announced in advance due to maintenance work or service or to circumstances outside of the Supplier's sphere of influence will not be taken into account when assessing availability. The assessment will be based on the service as a whole during the term of the agreement. Barring proof to the contrary, the availability measured by the Supplier shall be conclusive evidence.

- 5. Reporting**
- 5.1 The Supplier shall periodically inform the Client in the manner agreed in writing with regard to the implementation of the work via the contact person designated by the Client. The Client shall notify the Supplier in advance of any circumstances that affect or may affect the Supplier, such as the method of reporting, the issues that the Client wishes to focus on, the Client's priorities, the availability of the Client's resources and personnel, special facts and circumstances and facts and circumstances of which the Supplier may not be aware. The Client shall be responsible for the further distribution and examination of the information provided by the Supplier within the Client's organisation and shall assess this information partly on the basis of this and notify the Supplier accordingly.
- 5.2 If an employee deployed by the Supplier forms part of a project or steering group which also includes one or more individuals designated by the Client, the provision of information shall take place in the manner prescribed for the project or steering group. Decisions reached within a project or steering group with this composition shall only have a binding effect on the Supplier if the decision-making process takes place subject to due observance of the agreements reached between the parties in writing or, if no agreements have been made in this regard, if the Supplier has accepted the decisions in writing. The Supplier shall under no circumstances be obliged to accept a decision that it deems to be incompatible with the content of the agreement between the parties. The Client shall guarantee that the individuals it designates to form part of a project or steering group which also includes the Supplier's

employees are authorised to take decisions that will have a binding effect on the Client.

- 5.3 Partly in connection with the continuity of the work, the Client shall designate a contact or contacts who will act in this capacity for the duration of the Supplier's activities. The Client's contacts shall have the necessary experience, specific relevant knowledge and an insight into the Client's desired objectives.

6. Term

- 6.1 The agreement shall be entered into for the term agreed between the parties. If no term has been agreed, a term of one year shall apply. The term of the agreement shall be extended automatically by the term of the original period each time, unless the Client or the Supplier terminates the agreement in writing with due observance of a notice period of three months prior to the end of the period in question.

7. Payment

- 7.1 If an invoicing schedule has not been explicitly agreed, all amounts shall in each case be payable in arrears each calendar month. The Supplier may at any time demand that an advance payment be made.
- 7.2 Except where agreed otherwise, amounts shall be due as of the date on which the agreement commences.

© 2008, ICT~Office