

## **ADDITIONAL TERMS & CONDITIONS OF PURCHASING IT of the C&L Group**

The respective contracting company of the C&L Group shall be referred to as CL (CL) below.

The CON shall be referred to below as CON and both parties collectively as "contracting parties".

### **1. SCOPE**

- 1.1. The present Additional Terms & Conditions of Purchasing for IT form an integral part of each contract concluded and/or each order made by the C&L Group in the sphere of IT supplies and services.
- 1.2. The C&L Group shall be Casinos Austria AG, Österreichische Lotterien Gesellschaft m.b.H. as well as their affiliated companies (under § 189a (6) to (8) UGB [Austrian Entrepreneurial Code]).
- 1.3. To the extent that the present Special Terms & Conditions of Purchasing for IT of the C&L Group do not stipulate otherwise, the General Terms & Conditions of Purchasing (GTP) of the C&L Group apply.
- 1.4. The purchasing terms of the CL (referred to briefly as CL) shall apply. This shall apply regardless of any reference being made by the CON (briefly referred to as CON) to its own general or other terms & conditions. Said terms & conditions shall not have any legal effect, even if the CL does not explicitly object to the latter being referred to. Unless the CON has recognised the present purchasing terms previously already (e.g. by signing the order confirmation), it shall in any case acknowledge them by performing the service ordered.
- 1.5. Said purchasing terms shall also apply to follow-up or variation orders.
- 1.6. Amendments and supplements to these terms and/or any contract shall be made in writing and shall moreover only be valid if explicitly acknowledged by the CL in writing.

### **2. INTEGRAL PARTS OF THE CONTRACT**

- 2.1. Unless stipulated otherwise in the order, the contractual components shall apply in the following order, with agreements in any document listed first having priority over any contained in a subsequent document:
  - a) notice of award (order), individual order
  - b) order-specific specifications or contract terms
  - c) the present Additional Terms & Conditions of Purchasing for IT
  - d) General Terms & Conditions of Purchasing of the CL as amended at the time of contract conclusion

- e) the Austrian standards (Ö-NORMEN) and European standards (DIN, EN, ISO, etc.) applicable at the respective time, as well as their technical content, with the more stringent provision to be observed in each case.
- 2.2. If the orders are processed in the form of partial projects (within the scope of placing individual orders), the present Additional Terms & Conditions of Purchasing for IT shall provide the appropriate framework. Any agreements deviating therefrom in the respective individual order shall have priority over the Additional Terms & Conditions of Purchasing IT exclusively for the respective individual order.
- 2.3. Offers by the CON shall be binding until the date stated in the offer and obligatory for each contract award process referring to them.

### **3. EXECUTION OF THE ORDER**

- 3.1. The object of the contract shall be the deliveries and services contained in the respective contract (order) placed by the CON and in the respective final version of the specifications.
- 3.2. The scope of delivery of the CON shall include all deliveries and services required for the proper production and smooth operation (i.e. operation may be started and/or continued without restrictions) of the software, works and services ordered, to the extent they are within the sphere of the CON. For the software supplied by it, the CON shall provide the entire source code and the documentation required for commissioning and operation.
- 3.3. The CON undertakes to only employ competent personnel during development, whose training status and experience enables them to execute the order. The CON warrants to deliver a result that corresponds to the latest state of the art and the standard of quality customary in the trade as well as to the technical and economic setting of the contractual environment and that will be adequate to the operational requirements of the CL in terms of content.
- 3.4. All employees deployed by the CON for performance of the service, either within the scope of this agreement or of the individual orders, have contractual relationships with the CON. They are vicarious agents of the CON and are subject to its sole right of instruction.
- 3.5. If any person charged by the CON with performance of this agreement is replaced by any other person, the latter's induction as well as any other costs arising through replacement shall be borne by the CON.

### **4. DATE OF COMPLETION**

- 4.1. The software, works and services ordered shall be completed until the binding date of completion as per the schedule agreed between CL and CON. The software, works and services shall be considered complete if all requirements, functions and features agreed have been completed and implemented, as soon as they can be used to their full extent and when the software, works and services have been accepted. Acceptance shall take place after notification of readiness for acceptance, unless any class 1 and 2 errors are included.

## **5. DUE DATES OF PERFORMANCE**

- 5.1. The dates of delivery and installation shall be agreed between CL and CON upon award of the contract and are stipulated as integral parts of the specifications by mutual agreement. The delivery periods, delivery dates or deadlines for generation agreed shall be binding upon the CON. The same shall apply to partial performance.
- 5.2. If, due to foreseeable delays of own or third-party services, execution of the works assumed in the individual order is not possible at the dates agreed, the CON shall notify the CL accordingly in writing without delay, as soon as the delays become discernible, and at the same time notify the extent of the expected shift of deadlines.
- 5.3. If the CL's participation is required to observe deadlines or dates and if the CL is itself in default with respect to participation, the CON shall be obliged to notify the CL of any imminent exceedance of delivery periods or completion dates in writing in time, indicating the reasons, and shall point out any additional cost associated therewith. The same shall apply to partial performance.
- 5.4. The respective status of realisation shall be notified to the CL in writing periodically or upon request by the CL or any third-party company commissioned by the CL.
- 5.5. The CON shall be obliged to document the project, the documentation and accordingly also the source code during project implementation at any time so that the CL is able to develop and/or use the project itself at any time.

## **6. CHANGES TO THE SIZE OF THE ORDER (CHANGE REQUESTS)**

- 6.1. Any reductions, extensions and other fundamental changes of the scope of services to be performed that arise in the course of processing the order and influence the defined scope of supply and services shall be determined in writing including their effects, in the form of supplements and/or additions (change request).
- 6.2. Each change request shall be formulated in writing (also by e-mail) and handed over to the responsible contacts at CL and CON. Each change of the scope of services shall be set down in a separate written change request together with the associated effects on the scope of work, the dates, the compensation (costs) and the type of acceptance and shall be released by the CL.
- 6.3. If the change request originates from the CL, the CON shall examine the change within five workdays, determine the consequences/effects of the changes and shall compile them in writing in an amendment offer (called change request). The CL shall notify the CON within a reasonable period, but no later than within 14 days, as to whether it accepts the change request. For the change request to become effective, the original of the change request shall – after execution by the representative organs of the parties – be enclosed with this agreement as an integral part thereof.
- 6.4. The above-stated regulations shall apply analogously if the change request originates from the CON and the change is necessary in technical terms, if this was not discernible for the CON at the time of contract award.

- 6.5. The CON shall notify the CL in writing of any problems with respect to the agreed service to be performed that require a change request in its view immediately after identification of the problem.
- 6.6. Within the scope of the respective change request, the parties may agree upon acceptance in combination with other works or even separate acceptance of the service agreed in the respective change request according to the provisions of this agreement.
- 6.7. Any changes not set down and released in writing shall be acknowledged by neither the CON nor the CL.

## **7. PLACE OF PERFORMANCE, RIGHT OF ENTRY**

- 7.1. The CON shall provide the services owed in its own workshop, unless certain works must necessarily be executed at the CL's or any third-party premises for technical reasons. Reconciliation shall take place in individual instances. The CL shall take care that the employees of the CON obtain access to the business premises concerned, subject to observance of the internal rules for external persons.

## **8. ACCEPTANCE**

- 8.1. Acceptance of the software, works and services shall take place within three weeks after delivery and notification by the CON of readiness for acceptance of all services agreed (acceptance period). All services provided by the CON shall be deemed rendered, as soon as an acceptance procedure (verification of accuracy and completeness) was carried out by the CL.
- 8.2. Acceptance, which is confirmed by a written acceptance protocol, includes delivery of all documents required for commissioning, operation (utilisation), development as well as training, in particular source code and documentation, to the CL.
- 8.3. The presence of errors of class 1 and 2 (section 9) shall entitle the CL to refuse acceptance, all other defects shall be eliminated within the scope of warranty. All discrepancies identified within the acceptance period between the services agreed and the actual result of the project shall be remedied by the CON without delay.
- 8.4. Class 1 errors shall entail the repeated execution of acceptance with respect to the entire software, works and services and shall entitle [the CL] to refuse acceptance and to redhibition of the agreement (rescinded transaction) after repeated failure of fault removal within a reasonable period.
- 8.5. Class 2 errors shall entail the repeated execution of acceptance with respect to the fault previously reported and shall entitle [the CL] to refuse acceptance and to redhibition of the agreement (rescinded transaction) after repeated failure of fault removal within a reasonable period.
- 8.6. Class 3 errors shall not convey any entitlement to refuse acceptance and will be remedied within the scope of warranty.
- 8.7. Any defects occurring, in particular deviations from the agreed services, shall be comprehensibly documented and reported by the CL to the CON who is obliged to remedy the defect as soon as possible.

- 8.8. If remedy of the defect by the CON fails repeatedly (at least twice) within a reasonable period set by the CL, the latter shall be entitled to either:
- continue to request that the defect be remedied,
  - demand a corresponding reduction of the compensation,
  - or remedy the defect itself at the expense of the CON, or have it remedied by third parties.

## **9. ERROR CLASSES**

- 9.1. Error class 1: errors directly influencing essential functions of the application, thus failing to allow for productive use or considerably restricting proper use. Examples: crash of the software, no reaction to inputs; after reproducible events in each case.
- 9.2. Error class 2: errors that only concern individual functions of the application, but are so substantial that they influence productive use of the overall system in such a way that acceptance of the individual software and error correction within the scope of warranty are not reasonable. These errors cannot be avoided by organisational means.
- 9.3. Error class 3: errors that do not have any major impact on the functionality and availability of the overall system or that may be avoided by reasonable organisational means. The proper utilisation of the function is not restricted by these errors or only to a minor degree. Examples: typos in software texts, wrong colour codings, incorrect placement of software content.

## **10. WARRANTY**

- 10.1. The CON shall warrant that the products handed over and the services rendered meet the requirements, functions and properties stipulated in this agreement for utilisation of the work as agreed. Upon acceptance of the software, works and services, there is a warranty period of twelve (12) months, within which any defect identified must be reported and during which all defects shall be corrected by the CON without charge.
- 10.2. Should the work results show any defects, the CL shall notify the CON accordingly within a reasonable period. The defects identified by the CL shall be reported to the CON in writing, indicating the respective data configuration.

- 10.3. If the CON is not able to do so within a reasonable period, the CL shall be entitled to demand an adequate reduction of the compensation or, if the entire result of the work of the individual order is not fit for use for the purposes of the CL due to the irremediable defect, to demand redhibition.
- 10.4. If a defect is notified within the warranty period, it shall be eligible for assertion in court three months after expiry of the warranty period.
- 10.5. For extensions (e.g. on the basis of change requests), the same warranty conditions shall apply as for the original scope of services.

## **11. MAINTENANCE**

- 11.1. The CON undertakes to make a maintenance commitment for the software for the term of use by the CL. The details of maintenance shall be regulated in an agreement to be concluded separately.

## **12. PREMATURE TERMINATION / RIGHT OF RESCISSION**

- 12.1. If, in spite of setting a reasonable period of grace (at least 30 days) in writing, the CON fails to meet its delivery and service obligations, the CL shall be entitled to rescind the agreement with respect to the services not accepted. If, after partial rescission of the agreement, the remaining parts of the overall system can no longer be used in a commercially reasonable manner, the CL shall moreover be entitled to withdraw from the entire agreement.
- 12.2. In case of justified withdrawal by the CL, the mutual performance falling to the part of the agreement which the CL has withdrawn from shall be rescinded. The compensation of services rendered in accordance with the contract, with respect to which no rescission was declared, shall remain unaffected.
- 12.3. Rescission of the contract shall be notified to the CON in writing. In writing shall also mean by e-mail and fax, in particular.
- 12.4. If the CL withdraws from the agreement because ongoing operations are suspended temporarily or permanently due to licences, through official orders or due to court decisions or their commercially unacceptable consequences, the CON shall not be entitled to raise any claims for performance or damages. Nevertheless, the contractually agreed compensation shall be paid for deliveries and services already effected.
- 12.5. The CON shall be entitled to withdraw from the agreement if the CL substantially and sustainably obstructs the former's proper execution of the service or if the CL fails to make any payments without being justified in doing so, in spite of granting a reasonable period of grace. In that case, the CON shall be entitled to compensation for services already rendered.
- 12.6. If the CON withdraws from the contract under section 12.5, it shall be entitled to compensation for expenditure incurred up to that time. Said compensation shall be offset against any down payment made. As regards any payments already made by the CL that exceed the above-stated compensation amounts, the CON undertakes to retransfer them to the CL. The CON shall not have any claims beyond

that against the CL in that case. The other statutory rights and claims of the CL shall remain unaffected.

- 12.7. Force majeure, labour disputes (strikes), demonstrable natural disasters, etc. shall not release the CON from the delivery obligation; however, the original deadline shall continue after termination of the force majeure circumstances and/or the agreed delivery period shall be determined anew by mutual agreement.

### **13. CONFIDENTIALLY, NON-DISCLOSURE AND DATA PROTECTION**

- 13.1. The CON shall treat as strictly confidential all data, information and documents handed over to the CON by the CL or which become known to the CON in the performance of its contractual obligations ("Confidential Information"). The CON may not provide such data, information or documents to third parties, whether in whole or in part, directly or indirectly, without the CL's prior written consent. In addition, the CON shall impose these obligations in writing on its employees and all other persons it is entitled to consult under the parties' agreement. These obligations shall survive the termination of the contractual relationship
- 13.2. "Confidential Information" within the meaning hereof shall mean, in particular, any technical and non-technical information and/or data relating to the present, future or past or information regarding any activity, even if only intended, and further information about products, services and businesses ("Business Activity") of a party ("Transmitter"), their business associates, suppliers, licensors and customers, which one party discloses or transmits to the other ("Recipient") or to which one party gains access, of which it becomes aware or receives disclosure ("Recipient") as a result of the special (contractual) relationship of the parties to one another or under this agreement, for whatever reason and in whatever manner. It is irrelevant in what form the Recipient obtains such information and whether such information is protected by law or otherwise or whether or not it is expressly designated as confidential or secret. Confidential Information also includes combinations of information which, as such, may also be partially in the public domain or known to the public, but result in an actual or potential economic value or benefit only in their context and/or by not being known to third parties who may also derive a benefit from them.
- 13.3. Notwithstanding the forgoing, information shall not be considered "Confidential Information" if the Recipient of such information or data is able to prove that (i) such information was already in the public domain at the time it was provided to him; (ii) the information became known to the public after it was provided to the Recipient and the Recipient does not bear fault for the publication or disclosure of such information; (iii) the Recipient had already received such information prior to conclusion of this agreement without breaching any other contractual and statutory duties of confidentiality; (iv) the information was transmitted to the Recipient without a breach of any contractual or statutory duties of confidentiality; or (v) the information was independently developed by employees or CONs of the Recipient without reference to the Confidential Information of the Transmitter.
- 13.4. Both the CON and the CL expressly undertake to preserve secrecy with regard to "Confidential Information" and to observe the copyrights of the other party hereto and the third parties involved on the project of which they become aware in connection with the performance of a contract. Should one party suffer losses as a

result of a breach of this section, it shall be entitled to demand compensation from the other party for the full amount of such damages.

- 13.5. The CON shall comply with the provisions of the Austrian Data Protection Act (German acronym: DSG), the General Data Protection Regulation (GDPR) and any other statutory confidentiality obligations. In particular, the CON shall undertake all necessary data protection measures, in particular those required under the GDPR. Furthermore, the CON expressly undertakes to comply with sec. 6 DSG ("Data secrecy") and sec. 51 GSpG ("Game secrecy").
- 13.6. For purposes of performing the agreement, the CL shall process the personal data of the CON. Further details of this may be found in the data protection statement of the respective C&L group company. These are available on the website of the respective CL.
- 13.7. If the CON is a "processor" within the meaning of the GDPR, then it shall conclude an agreement with the CL pursuant to Art. 28 GDPR. The CON shall not use any other "processor" without the CL's prior separate or general written consent. In the event of general written consent, the CON, as the "processor" shall inform the CL as the "controller" of any intended change with regard to the involvement or replacement of other "processors", which shall give the CL the opportunity to object to such changes.

#### **14. RIGHTS WITH RESPECT TO WORK RESULTS AND DELIVERABLES**

- 14.1. The CON represents that the programs contributed and generated by it are free from such third-party intellectual property rights that impede, restrict or exclude the utilisation intended as notified to the CON upon contract conclusion, otherwise it shall be obliged to indemnify the CL with respect to all claims asserted. Moreover, the CON shall cause removal of the impairment of availability at its own expense without delay; any claim for damages for non-performance shall remain unaffected.
- 14.2. All works, inventions and other deliverables created by the CON during performance of the contractual services, in particular if they are to be qualified as works within the meaning of the copyright act or invention within the meaning of the patent act, including texts and computer programs, documentation etc., shall become the sole property of the CL upon being so created.
- 14.3. The CON hereby irrevocably transfers to the CL all rights of use and exploitation to the works, inventions and other deliverables created during performance of the contractual services, whether known today or in future, without any limitations as to time and territory, in particular to the works under the copyright act, patents under the patent act and utility patents under the utility patent act, including – if legally admissible – the pertaining rights of publicity. The CON shall take all steps required, if any, for the transfer of the intangible property rights to the CL. This includes the obligation to transfer the source code and all documentation required for operation and/or integration at the CL. Transfer of the source code and other documentation shall take place electronically immediately after generation, upon request by the CL, but upon acceptance at the latest.
- 14.4. Only the CL shall be authorised to further transfer these rights as well as to leave the utilisation of the programs to third parties.



- 14.5. The CON shall take care that the persons charged with the provision of works and services (also applies to subCONs) give their consent to the transfer of all rights to the work results, as provided for in section 14, and will provide corresponding evidence in documents upon being first requested to do so by the CL.
- 14.6. Transfer of the title and of the intangible property rights as well as of the pertaining obligations of the CON shall be compensated by payment of the compensation agreed in section 16; any compensation beyond that shall not be owed.
- 14.7. The CON guarantees that the experts employed by it or by the subCONs are the originators of all work results created within the scope of this agreement, i.e. that all works, inventions and other work results are created originally and for the performance of the present agreement.
- 14.8. The CON further guarantees that it violates no third-party rights, in particular no copyrights and related rights, during performance of the services.

## **15. RIGHT OF USE FOR STANDARD SOFTWARE**

- 15.1. The CL is granted the non-exclusive right of use that is also unlimited – subject to any written agreements to the contrary – in terms of time and place, in accordance with the type of use agreed for the respective contractual object.
- 15.2. The CL shall be entitled to use the delivered software within the C&L Group (acc. to section 1.2) in line with the type of use agreed for the respective contractual object.
- 15.3. Moreover, the CON shall enable the CL, upon the latter's request, to transfer the software to a member of the C&L Group without any additional costs (e.g. in case of internal reorganisations within the group of companies).

## **16. COMPENSATION**

- 16.1. Compensation of the CON shall take place on a lump-sum basis, unless provided for otherwise in the respective quotations and additional agreements.
- 16.2. All prices are stated in euros without VAT, unless otherwise provided for in the respective quotations and additional agreements. The prices stated are free place of delivery as agreed in each case and include all program data carriers required for delivery of the software.
- 16.3. The CL shall be granted a term of payment of 21 days with 3% cash discount, 30 days net after acceptance and invoicing. The CON undertakes to pay itself all taxes, social and other charges associated with this contractual relationship that concern it.
- 16.4. The payment terms shall depend on the agreements additionally made.
- 16.5. Unless otherwise provided for, the costs of the CON for travel, daily allowances and overnight accommodation (travel time, per diems, etc.) shall be borne by the CON.
- 16.6. The CL shall be entitled to withhold payments for non-contractual performance of the service by the CON as well as due to guarantee and/or warranty claims based on a written notice of defects, in line with the defect.

- 16.7. As regards any payments beyond the above-stated compensation, already made by the CL, the CON undertakes to retransfer the same to the CL. The CON shall not have any claims beyond that against the CL in that case. The other statutory rights and claims of the CL shall remain unaffected.
- 16.8. However, withdrawal by the CON, which must be notified by registered letter, shall only be admissible when the CON has granted the CL a reasonable period of grace (at least 30 days) for performance of the act or for payment in writing.
- 16.9. Any liability and penalty regulations shall be governed by the contract or by additional agreements.

## **17. FINAL PROVISIONS**

- 17.1. Any agreements beyond the present contract shall be made in writing to become effective. In writing shall also mean by e-mail and fax, in particular. The same applies to any deviation from this provision.
- 17.2. Should any provision of this agreement be or become invalid, the validity of the remaining provisions of this agreement shall not be affected thereby. The parties agree now already that they will replace any invalid provision by a legally valid provision that approximates the commercial purpose intended by the invalid provision as closely as possible.
- 17.3. Disputes from or about this agreement and/or the contracts based thereon shall be settled by amiable agreement between CON and CL if possible.
- 17.4. If no agreement is reached, a jointly designated expert shall carry out this valuation.
- 17.5. The cost of this expert shall be borne by the contracting party whose valuation is stated to be incorrect by the expert.
- 17.6. If the CL or the CON are merged into other companies, change their legal form or if other forms of universal succession take place, all rights and obligations from this contract shall vest in the respective legal successor.
- 17.7. The place of jurisdiction for all disputes arising within the scope of execution of this contract shall be the court competent for commercial matters in Vienna.