

**General Terms and Conditions of Business  
of Sogeti Deutschland GmbH**  
(in the version of 25.02.2008)

**Art. 1 Preamble**

Sogeti Deutschland GmbH (hereinafter: "Sogeti"), Schiess-Strasse 72, 40549 Düsseldorf, provides its customers with a multitude of consulting and other services in the area of information and communications technology, especially in the area of testing and developing software (hereinafter: "services").

**Art. 2 General Provisions – Scope**

Services performed by Sogeti are exclusively subject to these General Terms and Conditions of Sogeti (hereinafter: "GTC"). Sogeti does not acknowledge conflicting or deviating terms and conditions of the customer unless Sogeti has explicitly agreed in writing that they apply. The GTC of Sogeti also apply if Sogeti performs the services for the customer without reservation although being aware of conflicting and/or deferring conditions of the customer.

The GTC of Sogeti only apply towards enterprises as referred to in Art. 310 paragraph 1 German Civil Code (hereinafter: "BGB").

**Art. 3 Conclusion of the Contract**

1. A contract for the performance of services by Sogeti is to be concluded exclusively in writing.
2. Sogeti binds itself to its offers for a period of two (2) weeks after the date stated in the written offer.
3. Sogeti can accept offers from customers within two (2) weeks after the date stated in the customer's written offer.

**Art. 4 Ranking**

The individual regulations are ranked as follows:

- a) contractual agreements between Sogeti and the customer,
- b) performance description by Sogeti,
- c) GTC of Sogeti.

In cases of contradictions or unclear issues, the provisions named first always take priority over those named thereafter. Gaps are filled by the respective subordinate provisions.

**Art. 5 Scope of Performance**

The obligation of Sogeti to perform services is restricted to the use of the know-how which, at the time of the conclusion of the contract, is in accordance with the state-of-the-art that can be expected from a corresponding specialised enterprise.

**Art. 6 Provision of Services**

1. As a rule, Sogeti employees work 40 hours per week. If the work is wholly or partly not carried out at Sogeti, the customer ensures that the Sogeti employees can work 40 hours per week, i.e. customer allows access to the premises and the relevant equipment. If customer fails to do so, he shall nevertheless make remuneration for the full 40 hours per week and employee insofar as Sogeti is prepared and able to perform.
2. If, at the request of the customer, Sogeti instructs the employees to work overtime, a corresponding remuneration is paid in addition to the agreed tariff in accordance with the following table:

Day	Time	Surcharge
Monday - Friday	8 pm – 7 am	25%
Saturday	midnight – midnight	50%
Sunday / Holidays*	midnight - midnight	100%

\* Local regulations at the place of deployment apply with regard to public holidays.

3. Sogeti is only obligated to perform services within the admissible statutory limits, especially those stipulated by labour legislation.

**Art. 7 Time of Performance and Delivery Period**

1. If dates for performing or handing over services by Sogeti are stipulated in the contractual agreement or within the context of its execution, then these dates are non-binding target dates unless explicitly described as binding. Insofar as the calculation basis changes, Sogeti is entitled to demand an appropriate adjustment of these dates. This also applies if the customer does not fulfil his contractual cooperation duties.
2. The beginning of a performance or delivery period defined by Sogeti presupposes the clarification of all technical issues.
3. Compliance with performance or delivery obligations by Sogeti moreover presupposes the customer's prompt and correct fulfilment of his obligations. Claims for non-performance under the agreement are reserved.
4. If the customer is in default of acceptance or if he culpably breaches other cooperation duties, then Sogeti is entitled to claim compensation for damages insofar incurred, including any additional expenditure. The right to assert further claims is reserved.

**Art. 8 Prices – Terms of payment**

1. The prices for services provided by Sogeti are stipulated in the contractual agreement between the parties.

2. The agreed prices do not contain the statutory turnover tax; this is shown separately in the invoice in the statutory amount as at the day of billing.
3. The agreed prices do not include travel and accommodation costs and expenses. These must be paid separately by the customer.
4. Further, the agreed prices do not contain any charges levied by regional, national or international authorities. Sogeti bills these charges separately.
5. Deduction of discounts requires a separate agreement in writing.
6. If a decision or collaboration by the customer or by persons working for him is necessary within the context of services to be performed by Sogeti and Sogeti is unable to continue working due to a delayed decision or collaboration, then the waiting time incurred will be charged to the customer as working time. The right to assert further claims is reserved.
7. Unless otherwise agreed, Sogeti invoices monthly on the basis of corresponding records of performance (on an hourly basis). The invoice is immediately due for payment and must be settled by the customer within two (2) weeks following the invoice date. If the customer fails to do so, he is in default without further ado.
8. If the customer is in default of payment, Sogeti is entitled to charge interest in the amount of 8 percentage points above the respective basic lending rate pursuant to Art. 247 BGB. The right to assert further-reaching claims due to default of payment, e.g. due to a higher interest charge or appropriate litigation costs incurred, is reserved.
9. Sogeti is entitled to amend these GTC, as well as the services to be performed and the remuneration to be charged. In such case, Sogeti shall offer amended terms and conditions or services or remuneration respectively, to the customer; in so doing, Sogeti shall explicitly inform the customer in writing or by e-mail of his right to object to the validity of the amended terms and conditions, services or remunerations in writing within one month. If the customer does not object in due time, the contractual relationship shall continue under the respective terms and conditions, services and/or remunerations as amended.

#### **Art. 9 Term - Termination**

1. As a general rule, the contract is concluded for the term agreed upon at the conclusion of the contract. If the contract is concluded for an indefinite term, then either party is entitled to terminate the agreement with three months' notice to the end of a month. Termination must be notified in writing. If no term is agreed upon, Art. 649 BGB shall apply insofar as Sogeti performs services under a contract for work and services.

2. Either party has the right to terminate the agreement for good cause without observing a period of notice. Good cause for Sogeti is especially if:
  - the customer is in arrears with payment of the agreed remuneration or with a significant part thereof for two consecutive months,
  - the customer, over a period of more than two months, is in arrears with payment of the agreed remuneration with an amount equivalent to the remuneration for two months,
  - despite warning, the customer breaches essential obligations of the agreement,
  - insolvency proceedings are opened on the assets of the customer or if the opening of such proceedings is refused due to lack of assets.
3. In case of termination pursuant to paragraph 2, all outstanding receivables of Sogeti become due immediately.

#### **Art. 10 Duties of the customer and handover respectively acceptance of services**

1. The duties of the customer are primarily defined in the contractual agreement between the parties. The customer especially undertakes:
  - to pay the agreed remuneration plus the turnover tax thereon. The customer must reimburse Sogeti for the costs incurred for each unredeemed or returned debit note,
  - to not misuse the services of Sogeti and to use them exclusively in accordance with the applicable national and international laws and regulations, especially not to infringe any third party rights, e.g. moral rights, copyrights, trademark rights or rights to a name or other industrial property rights of third parties.
2. The customer shall fully and in reasonable time provide Sogeti with all useful and necessary data and information appropriate and reasonable to fulfil the contractual obligations and cooperate with Sogeti insofar as cooperation can be reasonably expected from the customer. The customer shall inform Sogeti of any organisational or personnel and technical developments and/or changes which are of interest for the execution of the contractual agreement.
3. If the parties agree that the work shall be carried out partially or wholly on premises other than those of Sogeti, customer undertakes to provide adequate accommodation for Sogeti's employees and to provide these employees with the relevant equipment necessary to effectively carry out their work.

4. The customer exempts Sogeti from all claims of third parties, including those of employees of Sogeti, who suffer damages in connection with the execution of the contractual agreement and which are caused by actions of or neglect by the customer or dangerous situations on the premises of the customer.
5. The customer is liable for all consequences and disadvantages incurred by Sogeti and third parties if the customer failed to fulfil his cooperation duties and other responsibilities. In this respect, the customer exempts Sogeti from any and all liability, including the appropriate costs of litigation.
6. Insofar as Sogeti develops software for the customer or hands over software or other products to the customer, the customer is responsible for the proper use and application of this software and/or products. The customer is moreover responsible for the maintenance and an appropriate system management, unless Sogeti has assumed these obligations in an explicit agreement. In general, the conditions of use of the respective entitled party apply for third party software or products.
7. Insofar as Sogeti develops software for the customer or performs other services which are subject to acceptance, the customer must accept these immediately. The customer may not refuse acceptance if the software or service merely has insignificant defects.
8. Training, consulting, support and services are not subject to acceptance nor is this required.
9. Documents (especially concepts, specifications and presentations) are handed over to the customer for examination of their contractual conformity. The customer notifies Sogeti about any necessary improvement required within ten working days. Sogeti will incorporate changes based on justified improvement suggestions within an appropriate period of at least ten working days. With the handover of the revised documents, these are then considered to have been provided according to the agreement.
10. In case of services provided under regulations applicable for purchase agreements, the customer has a duty of examination and a duty to notify Sogeti about non-conformity of the product without delay.

#### **Art. 11 Development of custom software**

1. Sogeti is entitled to all rights to the software produced for the customer and to the material handed over to the customer (especially documentation). This relates especially – but not exclusively – to copyright and inventor's rights as well as to industrial property rights.
2. Sogeti hands over the software to the customer in source code and grants the customer a non-exclusive, non-transferable right of use to the software and the documentation upon full payment. Insofar as Sogeti wishes to integrate third party software into the software produced

for the customer, Sogeti first acquires the necessary rights of use to the third party software in the name and for account of the customer and informs the customer hereof. Sogeti has no further-reaching responsibility with regard to the rights to this third party software.

3. If a third party asserts claims against the customer regarding own rights to the software developed for the customer by Sogeti or the material handed over in accordance with the contract, then Sogeti exempts the customer from these claims on condition that the customer informs Sogeti immediately and comprehensively of the asserted claims, the claimant and other essential circumstances and assigns all rights for the legal defence to which he is entitled, to Sogeti. In this case, Sogeti shall decide whether, under reasonable safeguarding of justified interests of the customer, a defence against these claims should be undertaken.
4. If it should be established with legal binding that a product handed over to the customer by Sogeti breaches third party rights, Sogeti shall, at its discretion, take back this product and refund the purchase price after deducting an appropriate portion for use by the customer or shall ensure in another way that the customer can continue to use the product without restriction within the context of the purpose of the agreement. The same applies if Sogeti refrains from a legal dispute and reaches agreement with the claimant in another manner.

#### **Art. 12 Reservation of proprietary rights**

All objects of performance handed over to the customer by Sogeti within the context of the contractual agreement remain the property of Sogeti until the customer fulfils all his contractual obligations, especially payment obligations.

#### **Art. 13 Software maintenance**

1. If a separate maintenance contract is concluded between Sogeti and the customer, then Sogeti will undertake maintenance of the software pursuant to such maintenance contract.
2. If a separate maintenance contract is not concluded, Sogeti is not obligated to maintain software it produces or sells except within the scope of the warranty pursuant to Art. 15.. If the parties did not conclude a maintenance contract with regard to Sogeti software at the time of the handing over of the software, then Sogeti is not obligated to conclude such a maintenance contract at a later point in time.

#### **Art. 14 Training**

1. If Sogeti conducts training at the request of the customer, then, unless agreed otherwise, Sogeti reserves the explicit right to specify the dates of this training and the training personnel as well as to re-arrange these dates and replace the training personnel at short notice if special circumstances make this necessary. In such case, the parties

will confer with each other about new training dates and new training personnel.

2. Unless agreed otherwise, Sogeti is entitled to combine the intended training with another Sogeti training course if this appears reasonable in view of the number of participants in the planned training and if it appears acceptable to refer the customer to this other training course.
3. Sogeti is the owner of all copyrights and other rights to the training material, unless explicitly stated otherwise. The training material provided is only for the exclusive use by the trainees. Any other use is not permitted.
4. The customer is not entitled to replicate the training material, to pass it on to others or publish it in any way, unless Sogeti has given its prior written consent. The customer guarantees that the persons he selected for a training course also comply with this obligation.
5. The customer is obligated to pay the training fees in full before the commencement of the respective courses.

#### **Art. 15 Warranty**

1. Within the framework of the statutory provisions, Sogeti warrants that the services it performs are not impaired with defects which annihilate or diminish its worth or suitability for the usual or contractually presupposed purpose.
2. When testing software, Sogeti does not assure that it will identify all possible existing errors in such tested software.
3. If consulting services are provided, the customer must allow Sogeti an appropriate period of time for subsequent improvement and revision of its work results, in case Sogeti has not considered certain aspects, the consideration of which would usually be indispensable according to rational judgment within the context of performing the service.
4. The mere fact that Sogeti does not comply with a target date or a handover date within the meaning of Art. 7 paragraph 1, does not imply that Sogeti is in default, insofar as Sogeti is not responsible for the delay. Sogeti especially excludes any and all liability for such delays for which the customer is responsible.
5. Within the context of the development of software, the parties agree that software in general, and thus as well software developed by Sogeti, cannot be and is not free from defects. Given this, the following applies for the contractual relationship between the parties: the software is deemed to be defective if the main functions of the functionality agreed in writing are essentially not given. Sogeti will develop the software with due care and in so doing, avoid defects to the best of its knowledge. In the absence of any other agreement, Sogeti is obligated to remedy defects in the software to its best knowledge without undue delay after

completion within the framework of the statutory provisions and without undue delay after acceptance if an acceptance test is agreed. If Sogeti is unable to remedy the defect within an appropriate period of time, then the customer may, as he chooses, either withdraw from the contract or demand a reduction of the purchase price. If the defect only affects a part of the developed software and the customer can reasonably use the other parts without the defective part, then the customer only has a claim for warranty with regard to the defective part.

6. The warranty obligation for Sogeti is 12 months as from passing of the risk. This does not affect longer statutory periods of limitation for liability and guarantee claims.

#### **Art. 16 Liabilities**

1. Sogeti is liable for injury to persons and for a given guarantee without limitation.
2. Sogeti is only liable for other damages if the damages were caused by Sogeti, its lawful representatives, employees or vicarious agents intentionally or due to gross negligence. Sogeti is moreover liable for minor breaches of essential contractual obligations (cardinal duties) or breaches of an agreed characteristic due to slight negligence, but limited in these cases to the foreseeable damages typical for this kind of contract. Any further liability of Sogeti, especially for indirect and consequential damages, lost profits, unachieved savings, etc., is excluded.
3. Insofar as Sogeti produces software for the customer, Sogeti is not liable for its functionality if and inasmuch as it was handed over in source code and the customer or a third party amended the software. Sogeti is not obligated to assume a warranty for errors caused by such changes. If a maintenance contract exists, the customer is obligated to immediately notify Sogeti of any amendments which were made even if these were made by third parties. This notice must be given in writing.
4. Sogeti has no liability vis-à-vis third parties from this contractual relationship unless Sogeti explicitly assumed such liability.
5. Sogeti is not liable on the basis of this contractual relationship for services performed by third parties – for instance other software consulting enterprises – on the basis of an own contractual relationship with the customer.
6. Damage and expenditure compensation claims become time-barred within one year as from the time at which the last service was performed or as from acceptance, if such took place or was agreed.
7. The foregoing regulations do not affect liability under German product liability law for malicious concealment of defects and for an assumed characteristics guarantee or due to other possible mandatory statutory provisions.

3. The customer allows Sogeti to use his name in an appropriate manner for advertising purposes.

#### **Art. 17 Force majeure**

1. Sogeti is not liable for delivery and performance delays due to force majeure and occurrences which render performance by Sogeti significantly more difficult or impossible – these especially include strikes, lockouts, official decrees – even in the case of bindingly agreed deadlines and due dates. Such occurrences entitle Sogeti not to perform the delivery or service for the duration of said occurrence plus an appropriate start-up time.
2. If a case of force majeure lasting for longer than 90 days or if it is certain that further execution is impossible, the parties are entitled to dissolve the agreement in writing without this entitling the respective other party to assert damage compensation claims for this reason. This does not affect the obligation of the customer to pay pro-rata for work already performed.

#### **Art. 18 Right to set off and right of lien**

The customer can only set off uncontested or lawfully established claims with claims of Sogeti. The customer is only entitled to assert a right of lien due to counterclaims out of the same contractual relationship.

#### **Art. 19 Headhunting**

The parties reciprocally undertake not to employ or offer employment contracts to or recruit in any other way employees or persons employed by the respective other party for the duration of this agreement and during a period of one year after its termination.

#### **Art. 20 Confidentiality**

1. The parties commit themselves not to disclose or pass on to third parties any know-how, business and operating secrets and other knowledge acquired within the context of the contractual relationship and especially not to conclude other contracts on the basis of such information. The parties shall obligate the persons working for them accordingly. This does not apply if the respective other party gave its prior written consent to the disclosure of the information or if the information is public knowledge or becomes public knowledge subsequently without a breach by the respective other party. This obligation to maintain confidentiality remains valid for three years after termination of the agreement.
2. Insofar as the customer provided material to Sogeti, Sogeti will return this material or destroy it if the customer so demands immediately after accomplishment of the services. However, Sogeti reserves the right to keep material for the documentation and examination of the assertion of own rights or for defence against third party rights under observance of existing confidentiality obligations.

#### **Art. 21 Data protection - Inspection**

1. The customer is herewith informed pursuant to Art. 33, Paragraph 1 of the German Federal Data Protection Act, that Sogeti processes his address in machine-readable form and mechanically for tasks arising from the contract.
2. Sogeti is especially allowed to collect, process and use personal data of the customer insofar as the data is necessary to establish or change a contractual relationship with the customer with regard to the services and its content structure (inventory data).
3. The customer agrees that Sogeti may collect, process and use inventory data inasmuch as this is necessary to advise the customers, for advertising or for market research for own purposes.

#### **Art. 22 Miscellaneous**

1. The customer may only assign rights and obligations from the contract with the prior written consent of Sogeti.
2. All contractual agreements between the parties must be set out in writing.
3. Changes and additions to the contractual agreements of the parties are only effective if they are set out in writing. Unless the law stipulates a specific written form as mandatory in the particular case and unless the parties have concluded an explicit agreement in writing to the contrary, fax communication suffices to observe the written form requirement, however, an email without digital signature is not sufficient.
4. If a provision of the respective contract or of these GTC of Business should be or become invalid or if a gap exists or occurs, this shall not impair the legal effectiveness of the other provisions. In this case the parties are obligated to agree on a legally effective provision coming as close as possible to the economic aim of the invalid or incomplete clause.
5. Dusseldorf is exclusive place of jurisdiction for all disputes from or in connection with this contract inasmuch as the customer is a businessman, a legal person under public law or a special fund under public law or has no general place of business in Germany or moves his domicile or usual place of residence out of Germany after conclusion of the contract or if his domicile or usual place of residence is unknown at the time when proceedings are initiated.
6. German law applies exclusively under exclusion of the United Nations Convention on Contracts for the international Sale of Goods (CISG).