

## General Terms and Conditions (GTC)

### 1. Scope of application

These General Terms and Conditions shall apply to agreements between a&o kreston ag (hereinafter "a&o") and its customers with regard to the services outlined in the order or quotation, unless otherwise agreed in writing or stipulated by force of law.

### 2. Scope and performance of services

The object of the agreement is the service agreed, not a specific successful economic outcome. a&o undertakes to carry out the contracted work with the requisite diligence. Verification for accuracy, completeness and correctness of the documents and figures delivered (particularly the bookkeeping and balance sheet) shall only be part of the order where this is agreed in writing.

If the agreed service is extended at the customer's request in the course of ongoing work, the corresponding additional expenses must be paid separately by the customer. Subsequent changes to the scope of services must be confirmed by a&o either in writing or in text form (fax, letter or email).

a&o has the right to engage employees, third-party specialists and companies to perform its services. a&o shall remain responsible for ensuring that the performance of its services by the third-parties engaged is in conformity with the agreement. If a third-party is engaged in the interest or at the request of the customer, a&o shall be responsible and liable only for the careful selection, instruction and supervision of this third-party. a&o shall transfer all obligations arising from the contractual relationship to the third-parties engaged.

### 3. The customer's duty to provide information

The customer is obliged to provide a&o with all documents required for performance of the agreement, in good time and without special request, and to notify a&o of all procedures and circumstances that may be significant for performance of the service. This also applies to documents, procedures and circumstances that first become known in the course of a&o's work.

### 4. Ensuring independence

The customer guarantees that they shall refrain from doing anything that may jeopardise the independence of a&o's employees. This especially applies to offers of employment and to requests to undertake orders on their own account.

### 5. Reporting and verbal information

If a&o is required to report the outcome of its work in writing, only the written report shall be definitive. All reports, assessments, test results etc. shall be submitted in writing, unless otherwise agreed. Verbal declarations and information provided by a&o employees outside of the agreed scope of services are always non-binding.

### 6. Industrial property rights/rights of use

If copyright or other industrial property rights exist for deliverables created by a&o for the customer, or for documents, expertise, analyses and/or IT programs transferred to the customer, these rights shall remain with a&o.

The customer shall be granted permanent, non-transferable, non-exclusive private usage rights with respect to the documents, analyses and/or IT programs transferred to them.

The extension of these usage rights to third-parties (including any companies affiliated with the customer) requires the express consent of a&o.

a&o has the right to make free use elsewhere of the ideas, concepts, methods and techniques employed during performance of the agreement, including the expertise acquired. The secrecy of confidential data and documents belonging to the customer shall be guaranteed in any case. If, contrary to expectations, claims are made against a&o on the basis of alleged infringements of property rights, a&o has the right to terminate the customer's usage rights without notice. In such cases, the customer is entitled to reimbursement of the compensation paid to a&o for the relevant service provision. Any other or further liability of a&o shall be waived.

### 7. Transmission of professional statements/ advertising

The transmission of professional statements by a&o to third-parties requires the written consent of a&o, unless consent for transmission to specific third-parties already arises from the terms of the agreement. The use of the logo or legal name of a contractual partner, as well as the use of professional statements or the fact of the contractual relationship for advertising purposes, require the express written consent of a&o. The customer shall, however, expressly give their consent to be named as a reference by a&o. Furthermore, a&o may use the fact of the contractual relationship and its specific work as a reference for example, as part of a quotation or at events.

### 8. Correction of defects

If the achievement of a specific work outcome is agreed in writing in the order or quotation, the customer is entitled to have a&o correct any defect. The customer may only demand a reduction or reimbursement of the agreement if the subsequent improvement also fails. Claims for compensation of costs incurred by the customer for the performance of the service in conformity with the agreement shall be excluded. If there are claims for damages apart from this, clause 9 shall apply.

Claims for the correction of defects must be asserted by the customer in writing immediately after the defect is discovered. The claim shall expire six months after delivery of a written statement by a&o, or – if a written statement is not submitted – six months after completion by a&o of the work about which the complaint was made.

In the case of a programming order, the warranty period shall begin as soon as a&o has proven the functionality of the program by means of test results, and has delivered the program.

Obvious mistakes such as typing or calculation errors, as well as formal defects, which are contained in a professional statement (report, assessment or the like) may be corrected at any time by a&o in respect of customers as well as third-parties. Mistakes that are liable to undermine the results contained in the professional statements of a&o shall also entitle a&o to withdraw these statements with respect to

## knowing you.

a&o kreston ag  
info@kreston.ch  
+41 (0)58 101 02 02  
[www.kreston.ch](http://www.kreston.ch)  
CHE-115.359.835 VAT

Schochenmühlestrasse 4, 6340 Baar (ZG)  
Husmatt 1, 5405 Baden-Dättwil (AG)  
Rothenburgstrasse 34, 6274 Eschenbach (LU)  
Seestrasse 166, 8810 Horgen (ZH)  
Birmensdorferstrasse 123, 8003 Zürich (ZH)

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Kreston Global network

Member of TREUHAND | SUISSE

 Member of EXPERTSuisse

 MEMBER OF THE  
FORUM OF FIRMS



third-parties. In the aforementioned cases, the customer's opinion must always be heard by a&o beforehand.

#### **9. Liability/warranty**

In connection with the services a&o provides and recommendations a&o makes, the customer acknowledges that the recommendations are based on the experience of a&o and on information provided by the customer, including about their business and the relevant market. a&o does not make statements regarding expectations, forecasts or recommendations as a guarantee. The value of such services depends on effective collaboration and implementation by the customer and their employees, among other considerations.

a&o is not liable to the customer for damages which have arisen without fault or because of minor negligence on the part of the customer.

a&o is also not liable for the accuracy, completeness and correctness of the documents handed over or transferred by the customer.

a&o is responsible for the careful fulfilment of its contractual obligations, and is liable, in this regard, for any direct damages that it causes intentionally or through gross negligence. Other than that, liability is excluded, in particular as a result of minor negligence as well as for indirect damages, consequential damages and lost profits. The same limitations of liability set out above shall apply for partners and employees of a&o as well as for third- parties engaged by a&o.

#### **10. Confidentiality with respect to third-parties**

a&o is obliged to maintain secrecy about all confidential – i.e. not generally known and publicly accessible – facts that become known to it in connection with its activities for the customer, regardless of whether this concerns the customer themselves or the customer's business relationships, unless the customer releases a&o from this obligation of secrecy. a&o may only hand over to third-parties reports, expert opinions and other written statements relating to the results of its activities with the consent of the customer.

a&o is authorised to process the personal data entrusted to it within the framework of contract fulfilment, or to have them processed by third-parties.

#### **11. Storage and publication of work products and reference files**

Reference files are stored by a&o for a period of ten years. This obligation shall expire before this period has ended however, if a&o has published the reference files upon the customer's request or if a&o has sent the customer a written request to take charge of the reference files and the customer has failed to do so within three months of receiving same.

Reference files shall include all documents a&o has received from or for the customer in connection with its business activities.

#### **12. Delays in acceptance, inadequate cooperation by the customer or third-parties appointed by the customer**

If the production of a specific work product has been agreed in writing in the order or in the offer, and if the customer or a third-party appointed by it delays acceptance of the service offered by a&o, or if the customer or a third-party appointed by it fails to cooperate in any respect as required under Clause 3 or otherwise, a&o shall be entitled to

terminate this Contract without notice. This shall not affect the right of a&o to compensation for the additional outlay it has incurred due to the delay or failure to cooperate on the part of the customer or a third-party appointed by it and for any damages incurred. In particular, the customer hereby indemnifies a&o against all third-party claims.

#### **13. Remuneration**

Unless otherwise agreed in writing, the customer shall be invoiced for the services provided by a&o on the basis of the actual hours worked and the respective valid hourly rates of the employees involved.

It may request appropriate advance payments towards remuneration and the reimbursement of expenses and may make the provision of its services dependent on the fulfilment of its claims in their entirety. Where there are multiple customers, these shall be jointly and severally liable.

The offsetting of any claims of a&o to remuneration and the reimbursement of expenses shall only be permitted where such claims are uncontested or legally established.

a&o shall issue monthly invoices for its services unless otherwise agreed. In addition to its fee scale, a&o shall also be entitled to the reimbursement of any effective expenses it incurs. Unless otherwise agreed, a&o invoices (including VAT) plus a flat rate charge of 3.5% for expenses shall be payable within 20 days of receipt. Payments shall be made in Swiss francs unless otherwise agreed.

a&o shall be entitled to adapt the hourly rates invoiced to bring them in line with inflation. The calculation of charges shall be based on the inflation index (Teuerungsindex, the Swiss national index of consumer prices).

#### **14. Cost estimates**

Cost estimates provided by a&o shall be based on estimates of the scope of the activities required and are produced on the basis of the data provided by the customer. These cost estimates provided by a&o shall therefore not be binding with respect to the final calculation of the respective fee.

In the event of a dispute, both a&o and the customer shall be entitled to consult the arbitration body of the responsible branch or the TREUHAND I SUISSE and/or EXPERTSuisse ethics committees.

#### **15. Termination of contractual relationship**

If a project is currently in a phase during which extensive consulting and planning activities are still required, or if the production of a specific work product has not been agreed, the contractual relationship may be terminated in writing by either party without notice. Upon the early termination of the contractual relationship, the fee incurred up to that point, on the basis of the actual hours worked and the respective valid hourly rates in addition to any other costs incurred and the proportionate profit-sharing payment arising from the Contract, shall fall due immediately. If the termination occurs at an inopportune time, the Party terminating the Contract shall be liable for any damages incurred as a result. This shall apply in particular with regard to damages incurred by a&o as a result of its having engaged the services of third-parties in connection with the performance of the Contract.

In all cases other than that outlined above in Paragraph 1, the customer may terminate the contractual relationship in



writing prior to the provision of the agreed service with notice of 30 days, against the full indemnification of a&o. If the contractual relationship is terminated in writing before the provision of the agreed service by a&o, observing the 30-day notice period, the customer must accept the part of the agreed service that has already been provided and pay the related fee incurred on the basis of the actual hours worked and the respective hourly rates in addition to any other costs incurred if it can use the partial service provided. Should circumstances arise that would make it unreasonable for a&o to perform a contract other than that outlined in Paragraph 1 above, a&o may terminate any such contract in writing and without notice at any time. If a&o is not responsible for the development of these circumstances, the customer must fully indemnify a&o in the event of termination of the Contract.

#### **16. Special agreements**

a&o is a member of Kreston International Ltd. (hereinafter referred to as "Kreston").

Kreston is a global network of independent accounting and tax consultancy firms that provide professional services to clients. Each company is a member of Kreston, a UK limited reserve liability company, which does not provide services to its members' customers. Members of Kreston are legal entities in their own right, and are linked to one another only through common membership of Kreston. Some Kreston members use Kreston as part of their company.

Nothing in Kreston's policies or regulations creates or implies any agency relationship or partnership between Kreston and/or any of Kreston's member companies. To provide support in rendering services to a given customer, a&o may occasionally establish contact between the customer and partners or employees of other Kreston members. If the customer makes use of the services rendered by these partners or employees in connection with this order, that customer must enter into its own contractual arrangements directly with them and they must not be regarded as a customer or representative of a&o. Accordingly, a&o accepts no liability of any kind for the services rendered to the customer. Neither Kreston nor any other Kreston member company accepts any responsibility in connection with this order unless the customer enters into direct contractual arrangements with them. The fact that contact between a&o and the customer has been established by an associated Kreston member does not result in that associated Kreston member or its employees bearing any responsibility for any acts or omissions on the part of a&o.

By placing an order with a&o, the customer agrees that any claims arising from this order will be asserted exclusively against a&o, and that no claims of any kind relating to the order will be asserted against any other member of Kreston, or against Kreston itself or personally against any other party involved in the execution of this order.

In the event that the customer uses or intends to use the services of another Kreston member, the customer agrees that a&o may share confidential information concerning the customer with other Kreston members or with the Kreston directors to the extent that such information is relevant to service provision by the other Kreston member or relates to services a&o provides or has provided to the customer.

#### **17. Archiving of documents**

The customer is responsible for archiving documents/ data and compliance with legal storage regulations.

#### **18. Data protection and data security**

a&o and the third-parties it employs comply with the applicable data protection provisions when handling personal and customer data. In particular, the data protection provisions of a&o kreston ag prevail. These are published on the website. Within the scope of order fulfilment, a&o is entitled to process the customer's data and to share them with selected commissioned data processors. The commissioned data processors are bound by the same data protection provisions as a&o and are not authorised to use the data for their own purposes or to share it with third-parties. If the commissioned data processors are located in countries where there is an adequate level of data protection, data protection is ensured by means of contractual standard data protection clauses.

a&o uses appropriate technical and organizational measures to protect the personal and customer data against foreseeable risks.

#### **19. Electronic communication**

Communication by email, fax, mobile phone or online applications involves risks such as the possibility of the content of the message being viewed, as well as its modification or loss. Risks of this type can be reduced through the use of encrypted transmission. a&o offers IncaMail as a service for the transfer of encrypted data. This service is operated by Post CH AG and is subject to the usage and data protection provisions of the third-party provider. These can be viewed on the following website of the third-party provider: <https://www.post.ch/en/pages/footer/data-protection-and-disclaimer>.

a&o strives to process emails promptly. However, their receipt may be delayed for technical or operational reasons. a&o does not guarantee prompt processing of emails. Emails sent to a&o do not constitute agreement with time limits and deadlines. In order to ensure an email is received, recipient confirmation must be requested.

If the customer does not issue any written instructions relating to electronic communication, the customer authorizes a&o to use unencrypted electronic communication despite being aware of the corresponding risks. The customer may change these instructions at any time. To avoid ambiguity, any changes must be communicated to a&o in writing and in advance.

#### **20. The a&o kreston app**

a&o provides its customers with an app for the encrypted transfer of receipts. The use of this app and data processing by this app are regulated by the corresponding terms of use and data protection provisions. These can be viewed in the app.

#### **21. Third-party services**

The following third-party services may be used for data exchange between a&o and the customer, and for data storage. The use of these or other services is subject to the terms of use and data protection provisions of the respective third-party provider. The use of such third-party services is the sole responsibility of the customer.



ABACUS  
Abacus Research AG  
Abacus-Platz 1  
9300 Wittenbach St. Gallen (Switzerland)  
<https://www.abacus.ch/de/>

BEXIO  
bexio AG  
Alte Jonastrasse 24  
8640 Rapperswil (Switzerland)  
<https://www.bexio.com/en-CH/policies>

Sage  
SAGE (Schweiz AG) Platz 10  
6039 Root (Switzerland)  
<https://www.sage.com/en-gb/legal/privacy-and-cookies/>

Google Drive  
Google LLC  
1600 Amphitheatre Parkway  
Mountain View CA-94043 (USA)  
<https://policies.google.com/privacy?hl=en-US>

Dropbox  
Dropbox Inc.  
333 Brannan St.  
San Francisco CA-94107 (USA)  
<https://www.dropbox.com/privacy>

IncaMail  
Post CH AG  
Wankdorfallee 4 3030 Bern (Switzerland)  
<https://www.post.ch/en/pages/footer/data-protection-and-disclaimer>

Snap.Share  
Ringler Informatik AG  
Snapshare Det.  
Baarerstattstrasse 10  
6340 Baar (Switzerland)  
<http://www.snapshare.ch/privacy-en.html>

revio  
HELVETRAS GmbH  
Kesslerstrasse 9  
9001 St. Gallen (Schweiz)  
<https://www.revio.ch/>

## **22. Severability clause**

If one of the provisions in these General Terms and Conditions is or becomes invalid, void or unenforceable, this shall not affect the validity and enforceability of the remaining provisions.

## **23. Applicable law and place of jurisdiction**

All agreements and other legal relationships between the parties which are subject to these General Terms and Conditions, shall be governed by Swiss law, to the exclusion of any treaties.

For all disputes arising in connection with agreements or other legal relationships between the parties which are subject to these General Terms and Conditions, the place of jurisdiction shall be the a&o domicile or place of business at the discretion.

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