

# General Terms and Conditions for Consulting Services and Other Services of Eigenherd GmbH

These General Terms and Conditions shall apply to all consulting services and other services provided by Eigenherd GmbH on the basis of an order or an order confirmation. An order and/or order confirmation are referred to as a "contract" within these provisions.

## §1 Area of application

1. These General Terms and Conditions shall apply to all contracts, including those arising from future business transactions with Eigenherd for the areas of consulting services and other services. With the written order confirmation, the customer accepts these General Terms and Conditions.
2. The Terms and Conditions shall also apply if counter-confirmations by the customer are made with reference to its own terms and conditions. Express objection is hereby made to such counter-confirmations.
3. Deviations from these GTCs, supplementary agreements and ancillary agreements shall only be effective if agreed in writing or confirmed in writing by Eigenherd.
4. Changes to the GTCs shall be communicated to the customer by e-mail or post at least 4 weeks before they enter into force. If no objection is made to such changes within one month of delivery, they shall be deemed accepted. If a customer objects in due time, Eigenherd shall have the right to terminate the existing contract with this customer with a notice period of two weeks.

## §2 Type and scope of consulting services and other services

1. Eigenherd provides various consulting and other services to support customers, in particular in connection with the administration, maintenance and further development of the customer's Salesforce.com instance. The type, place, time and scope of consulting services and other services are determined in the respective contract.
2. Eigenherd does not provide legal or tax consulting. Where required, customers are instructed to consult an attorney and/or tax advisor.
3. Eigenherd shall provide the consulting services and other services in accordance with this contract and in accordance with the current state of knowledge at the time of the conclusion of the contract and by personnel qualified to provide the agreed services.
4. Eigenherd shall also be entitled to have services rendered by third parties.
5. The object of the contract does not include services under a contract for work and services. There is no guarantee of any particular result.

## §3 Cooperation of the customer

The customer shall coordinate the order in detail (including type, scope, deadlines) with Eigenherd and provide Eigenherd with reasonable support in the performance of the consulting services and other services. In particular, he shall provide it with the necessary information and documents in full and on a timely basis. Any further cooperation shall require a separate agreement. The customer is responsible for proper data backup.

## §4 Rights to the embodied service deliverables

Eigenherd grants the customer the non-exclusive, perpetual, irrevocable and non-transferable right to use the embodied deliverables of consulting services and other services provided under the contract, to the extent that this arises from the purpose and scope of use of the contract. These rights include the agreed interim deliverables, training materials and auxiliary resources.

## §5 Remuneration

1. The remuneration for consulting services and other services is the fee for the time spent on the contractually agreed service. The service furnished by Eigenherd shall be invoiced to the customer on a monthly basis and/or at the latest upon completion of the services. Material costs are remunerated separately. Remuneration for waiting times of Eigenherd employees for which the customer is responsible shall be the same as that for working hours. Travel costs and expenses that Eigenherd has to pay to its employees deployed within the scope of these services in accordance with Eigenherd's travel expense policy shall be passed on to the customer. Unless expressly stated otherwise, total prices and times quoted in offers are non-binding estimates of the costs and time to be expected according to a professional calculation.
2. Remuneration for the performance of consulting services and other services shall be based on a fixed price per person-day agreed in the contract. One person-day comprises 8 hours including breaks. Separate remuneration shall be provided for additional time, surcharges for work on weekends and holidays and incidental expenses.
3. The customer shall provide remuneration for services of an agreed contingent that are not used in full as a flat-rate provision fee. A carryover to subsequent months is not possible.
4. The customer shall only be entitled to set-off rights if his counterclaims have been legally established, are undisputed or have been acknowledged in writing by Eigenherd. A right of retention of the customer is barred, unless the counterclaim of the customer originates from the same contractual relationship and is undisputed, acknowledged in writing or legally established.

## §6 Qualitative performance fault

1. If the consulting service is not provided in accordance with the contract or is provided incorrectly and if Eigenherd is responsible for this, Eigenherd shall be obligated to provide the service in accordance with the contract within a reasonable period of time at no additional cost to the customer. The prerequisite is a complaint by the customer, which must be made immediately, at the latest within 2 weeks after obtaining knowledge of the circumstance.
2. If the contractual provision of the service is not successful in essential parts for reasons for which Eigenherd is responsible, even within a reasonable grace period to be expressly set by the customer, the customer shall be entitled to terminate the contract without notice. In this case Eigenherd shall be entitled to remuneration for the services rendered on the basis of the contract until the termination becomes effective.

## §7 Payment periods/delay

The prices are net prices plus the applicable statutory value-added tax. The due date of payment shall commence with the invoice date. If the customer is in default of payment in whole or in part, Eigenherd shall be entitled to charge statutory interest at a rate of 8% p.a. above the base interest rate from the date in question. Furthermore, Eigenherd shall be entitled to withhold its services and to perform outstanding services only against advance payments or the provision of security.

## §8 Liability

1. Claims for damages of any kind against Eigenherd, its statutory representatives, employees and its vicarious agents, particularly including those based on tortious liability, a breach of duty or a breach of the obligations listed in § 311 of the German Civil Code (*Bürgerliches Gesetzbuch*, "BGB"), shall be limited to grossly negligent or intentional conduct.
2. Eigenherd shall be liable for the intentional acts and gross negligence of its vicarious agents who are not executives only to the extent of typically foreseeable damages.
3. The limitations of liability in accordance with paragraph 1-2 shall not apply in the event of damage to life, body or health or in the event of a breach of a cardinal duty.
4. Eigenherd assumes no liability for the success intended by the provision of the service.
5. Claims for damages against the other contracting party shall be time-barred in accordance with the statutory provisions, however, no later than three years after the breach of duty or the tortious act, unless liability is based on an intentional act.
6. In the event of the loss of data, Eigenherd shall only be liable for the effort that would have been required to restore the data if the customer had properly backed up the data.

## §9 Data protection

1. Eigenherd collects, processes and uses personal data only insofar as this is necessary for the establishment, content, processing, fulfilment and modification of the contractual relationship established with the customer. Data will only be passed on to third parties if this is necessary to fulfil your requirements and wishes, in particular for the purpose of initiating and processing a contract. Eigenherd shall continue to collect personal data in order to be able to inform customers and interested parties about new products. The customer may revoke his consent to the storage of personal data for the future at any time. The recipient of the revocation is Eigenherd GmbH, Susannenstraße 18, 20357 Hamburg.
2. Eigenherd shall be entitled to pass on the personal data to the third parties commissioned with the performance of the contractual services in accordance with § 1, para. 2.
3. The customer shall ensure that Eigenherd is informed of all relevant facts beyond the statutory regulations, knowledge of which is necessary for it for reasons of data protection and confidentiality. The customer is responsible for compliance with laws and regulations on data protection and IT security. If the performance of a maintenance service or a service under warranty is not possible without access to personal data by Eigenherd, the respective manufacturer of the software or the provider of the SaaS solution, the customer is informed that, in accordance with the statutory requirements, he must inform the persons concerned that he will pass on their data to Eigenherd, the manufacturer of the software and/or the provider of the SaaS solution or allow them access to their data.
4. The customer is aware that he must obtain the consent of the persons concerned in an appropriate form prior to the performance of the maintenance and/or consulting order or the performance of the warranty. The customer and Eigenherd are obligated to treat all confidential information, business and trade secrets obtained within the scope of the contractual relationship as confidential and, unless required for the performance of the contract, not to disclose such information to third parties or to use it for purposes other than contractual purposes.

## §10 Secrecy

1. The customer and Eigenherd are obligated to maintain confidentiality with respect to all business and trade secrets of the other party that become known in the course of the contractual activity and, unless necessary for the performance of the contract, not to disclose them to third parties or to use them other than for contractual purposes; such secrets comprise all information that is not generally available.
2. Any publication of the work deliverables shall require the prior written consent of the customer if they are not in anonymised form. Eigenherd has the right to use the project including a brief description, along with the name and logo of the customer, as a reference in its own physical and/or digital sales documents, including its own web pages.

## §11 Final provisions

1. Amendments must be made in writing. This also applies to the written form clause of the termination.
2. Further terms and conditions are barred, unless otherwise agreed in this contract.
3. If an individual provision of this contract is or becomes invalid in whole or in part or in need of supplement, this shall not affect the validity of the remaining provisions. In place of the invalid provisions or provisions in need of supplement, the parties shall agree on a new provision that comes as close as possible to the intended economic purpose. § 139 of the BGB shall not apply.
4. If the customer is a merchant, a legal entity under public law or a special fund under public law, the place of jurisdiction is agreed to be the registered office of Eigenherd, currently Hamburg. However, Eigenherd shall be entitled to sue the customer at the place of jurisdiction generally applicable to the customer.

Status: 1 January 2018