

[*** Dvakrát klikněte pro vložení tabulky s revizemi ***]

System4u General Terms of Business for the Provision of IT Services

The general terms of business of System4u regulate the terms for the provision of IT services by this company. These terms pertain to the System4u Agreement on the Provision of IT Services, entered into between System4u and the client (hereinafter the "Agreement"). These terms of business define the relationship between System4u and the client. Contractual relations between the parties shall be governed by the Civil Code (Act No. 89/2012 Coll.) and the Copyright Act (Act No. 12/2000 Coll.).

1. Rights and Obligations of the Contracting Parties

1.1. The client undertakes to provide System4u with complete, true and timely information necessary for the proper performance of obligations by System4u.

1.2. In the event that the provision of services according to this agreement will include the processing of personal data that are, under the valid legal regulations, subject to the previous consent of any third party or of the data subject, the client shall have an obligation to arrange for such consent at its own cost in such a way so that the processing of data within the provision of services is performed in accordance with the law.

1.3. The client undertakes to ensure for System4u the necessary technical and organizational conditions arising from this agreement or as agreed by authorized persons.

1.4. The client further undertakes to provide System4u with documents and information necessary for the installation and provision of the operation of IT services.

1.5. The client undertakes to enable System4u to have access to the client's software and automated as well as non-automated information system to an extent necessary for the proper performance of this agreement.

1.6. System4u undertakes to inform the client without undue delay of all circumstances that are significant for the performance of the obligations of the contracting parties and primarily of circumstances pertaining to the performance of services under this agreement.

1.7. System4u undertakes to perform its obligations arising under this agreement in accordance with the relevant rules and on the basis of the latest know-how of research and development in this area.

1.8. System4u undertakes to deal with any outages of IT service no later than on the following business day.

1.9. System4u shall be entitled to temporarily deny access to IT service in the event of a delay on the part of the client in the payment for such service of more than 30 days, until the payment of the due amount.

1.10. The client undertakes that it shall not carry out any activity that would lead to a disruption of the operation of the System4u data center, or to a disruption of the provision of IT service in regard to other System4u clients.

1.11. The client undertakes that it shall not carry out any activity that would lead to infiltration into the System4u data center with the goal of acquiring information pertaining to System4u or other clients stored in the System4u data center or with the goal of the subsequent use of such acquired information.

2. Intellectual Property Rights and Licensing Arrangements

2.1. Ownership right and reservation of rights. The client acknowledges and agrees that:

- a) products, including their relevant documentation sets, and all information that the client obtains by way of, directly or indirectly from System4u, contain protected information of System4u, the provider's of its licenses or other suppliers, and are protected by the copyright act of the Czech Republic, other relevant copyright laws, other laws regarding the protection of intellectual property, and the provisions of international treaties;
- b) the complete ownership right and claims to products, documentation sets, information, and all related rights to intellectual ownership, shall belong to System4u or to the providers of its licenses;
- c) products are licensed, not sold, and the ownership right to individual copies of products belong to System4u or to the providers of its licenses, and in no case do they pass to the client;
- d) System4u reserves all rights that are not expressly provided to the client.

2.2. Source code. Under this agreement, the client is not entitled to receive, view, use or otherwise have access to the source code of products.

2.3. Client's declaration. The client declares that it has acquainted itself with the licensing terms of System4u as well as of the providers of its licenses as they are set out at the internet address <http://www.system4u.cz/kontakt/smluvni-dokumenty>. The client agrees to the licensing arrangements that have been issued by the owners of software products as a part of individual software products.

2.4. Reverse engineering. The client shall not decode, decompose, recompile, decompile or otherwise transfer products or create derivatives from them, unless expressly permitted to do so by relevant law despite this restriction. If the law permits the client any of the activities stated in the previous sentence, the client may exercise such right under the condition that it informs System4u of such fact in writing no later than thirty (30) days prior to the commencement of such activity. The client shall not use products or documentation sets for the development of functionally similar computer software.

2.5. The client can only utilize the agreed number of licenses.

2.6. The client cannot rent, lend out, lease or otherwise directly or indirectly transfer or distribute software products. The client cannot enable a third party to have access to software products.

2.7. System4u shall not be liable for the correct functioning of software products in the event that they are operated on an incorrectly configured computer or in the environment of an incorrectly adjusted computer network.

2.8. System4u shall not be liable for the correctness of outputs submitted to tax administrators, state authorities, business partners and other entities.

3. Protection of Information

3.1. The contracting parties are aware of the fact that in the performance of this agreement:

- a) they can mutually, intentionally or even through negligence, provide or disclose information that will be considered confidential (hereinafter “confidential information”),
- b) their employees or representatives can acquire access, through the deliberate activity of the other party or even through its negligence, to the other party’s confidential information.

3.2. All confidential information shall remain the exclusive ownership of the disclosing party and the receiving party shall make the same effort to maintain its confidentiality and to protect it as if it was its own confidential information. With the exception as necessary for the performance of this agreement, both parties undertake to not acquaint themselves with the material content of the other party’s confidential information, to not duplicate the confidential information of the other party in any manner, to not disclose it to a third party or to its own employees and representatives with the exception of those who need to be acquainted with it in order to fulfill this agreement. Both parties also undertake to not use the other party’s confidential information otherwise than for the purpose of the performance of this agreement.

3.3. Unless the contracting parties expressly agree otherwise, all information that is or could be a part of a business secret shall implicitly be considered confidential, i.e. primarily data stored in the System4u data center, technical know-how, commercial or marketing information, and all other information whose disclosure by the receiving party could cause the disclosing party to incur damage.

3.4. Regardless of the above provisions, information shall not be considered confidential if:

- a) it became publicly known without it having been caused by the intentional or negligent fault of the receiving party,
- b) the receiving party had it legally available prior to the execution of this agreement, if such information was not the object of another agreement on the protection of information executed between the contracting parties previously.

3.5. The provision of this article shall not be affected by the termination of the effectiveness of this agreement for any reason, and its effectiveness shall not terminate sooner than one (1) year after the termination of the effectiveness of this agreement.

3.6. A breach of obligations in regard to the protection of information according to these terms shall not be considered to include the provision of information that the client has entered into an Agreement on the Provision of IT Services, and information regarding the number of users of IT services. Such information are provided as part of System4u reporting in regard to the authors and owners of the software products being used – e.g., the Microsoft company.

4. Liability for Damage

4.1. The contracting parties shall bear liability for caused damage according to the valid legal regulations and to the extent as set out in these terms of business. The contracting parties undertake to make the maximum effort to prevent damage and to minimize damage arising.

4.2. Neither of the contracting parties shall be liable for damage that has arisen as a result of a materially incorrect or otherwise faulty assignment that it received from the other contracting party. Neither of the contracting parties is liable for a delay caused by a delay in the performance of the obligations of the other contracting party.

4.3. Neither of the contracting parties shall be liable for damage caused by a delay of the other contracting party in its own performance.

4.4. Neither of the contracting parties shall be liable for a delay caused by circumstances precluding liability. Circumstances precluding liability shall be considered to be impediments that have occurred independently of the will of the obligated party and

which prevent it from fulfilling its obligation, if it cannot be reasonably assumed that the obligated party would avert or overcome such impediment or its consequences, and further, that it would foresee the impediment at the time when it arose. Liability is not precluded by an impediment that arose only at a time when the obligated party was in delay in the performance of its obligation or arose from its economic situation. The effects precluding liability are limited to only the time when the impediment with which such obligations are associated is continuing.

4.5. The contracting parties undertake to notify the other contracting party without undue delay of arising circumstances precluding liability by preventing the proper performance of this agreement. The contracting parties undertake to exert the maximum effort to prevent and overcome circumstances precluding liability.

4.6. System4u shall not be liable for damage arisen through the effects of an outage of the network supply, an outage of the internet connection, the turning off or resetting of a computer, a virus infection in a computer, an attack from the internet network or from another network, a hardware malfunction (hereinafter “HW”) or a software error (hereinafter “SW”).

4.7. System4u shall not be liable for damage that was caused by the following behavior of the client:

- a) incorrect handling of hardware (hereinafter “HW”), software (hereinafter “SW”) by users that would result in defects of services provided under this agreement
- b) failure to comply with licensing terms for SW products on the part of the client and users
- c) unauthorized or unprofessional intervention by users in regard to SW and HW administrated by System4u
- d) insufficient protection or abuse of access names and passwords to the IT service on the part of the client and users.

At the same time, System4u shall not be liable for defects arisen as a result of natural disasters or a force majeure event. For the purposes of this agreement, users shall be understood to mean the client’s employees or other persons who have used the IT service.

4.8. The liability of System4u for defects shall consist in

- a) the repair or replacement of a product or other material not fulfilling the guarantees set out above,

- b) consultancy to the client as to how to achieve the same functionality with the product as described in the documentation set, by way of a different procedure than that which is described in the documentation set, or
- c) a refund of the purchase price or paid fees,

4.9. Neither System4u nor the providers of its licenses or its suppliers shall be liable to the client in any case for lost profit, lost proceeds, damage to goodwill, loss of good name, interrupted operation, costs associated with a loss of or damage to data or documentation, costs of delay, or for any indirect, incidental, special or consequential damages regardless of the nature of the claim, including primarily losses of utility value, non-availability of on-line services, failure to make a delivery, or for damage incurred by third parties, for any reason or on any grounds, even if System4u was informed, knew or should have known of the possibility of such damage or claims arising.

4.10. The client acknowledges that the products are not resistant to malfunctions and were not created, produced or intended for use, nor shall they be used, in the development of weapons of mass destruction, as on-line operating systems in a dangerous environment requiring trouble-free operation, such as the operation of nuclear facilities, aviation navigation and communications systems, air traffic control systems, medical devices supporting vital functions or weapons systems, in which a product malfunction could directly cause death, injury or significant material or environmental damage. Further, the client also acknowledges that products cannot take the place of its professional judgment, and, in accordance with that, neither System4u, the providers of its licenses, nor its suppliers shall be liable for the use of products by the client or for the results achieved through such use. Products are intended exclusively for the support of the client's business activity and not as a replacement for independent examination and verification of stress, safety, utility value and other parameters by the client.

4.11. If, regardless of sections 4.1 - 4.10 of these terms, System4u is declared to be liable for damage arising from a breach, defect, error or incongruity of a product, support services or other services or materials, regardless of whether it is a case of contractual or non-contractual liability, and regardless of whether any compensation according to this agreement fails to fulfill its statutory purpose, the total liability of System4u under this agreement shall not exceed:

- a) in the case of one-time performance by System4u -- the total amount of the price of such performance not including the relevant VAT, paid by the client for the relevant defective product or other defective service or material;
- b) in the case of recurring performance – four times the monthly invoiced price of the defective service, the amount of which is specified in the annex to the agreement on the provision of IT services.

The provisions of these terms divide the risks between System4u and the client, whereby the System4u price policy reflects this division of risks and the limitation of liability set out herein.

5. Final Provisions

5.1. The contractual relationship between System4u and the client, as well as the rights and obligations arisen on the basis of the Agreement or in connection with it, shall be governed by Act No. 89/2012 Coll. (the Civil Code), as amended, and the other legal regulations of the Czech Republic.

5.2. In the event of a discrepancy between the provisions of the Agreement and these terms, the provisions of the Agreement shall prevail.

5.3. The client shall be entitled to withdraw from the agreement in the event of a significant breach of the Agreement and these terms consisting in a delay on the part of System4u in the performance of its obligations for a period of more than thirty (30) days and provided that it fails to remedy the situation within ten (10) days of the delivery of a written notice from the client. System4u is not in delay in the performance of obligations according to the Agreement.

5.4. System4u shall be entitled to withdraw from the agreement in the event of a significant breach of the Agreement and these terms by the client, consisting in a delay on the part of the client in the performance of obligations according to this agreement for a period of more than thirty (30) days and provided that it fails to remedy the situation within ten (10) days of the delivery of a written notice from System4u.

5.5. Should the client become insolvent or bankrupt, or should it proceed to reorganize its obligations, or is not able to pay its debts or goes into liquidation, System4u shall

have the right to terminate this agreement with immediate effect by way of a unilateral written withdrawal.

5.6. Withdrawal from the agreement shall not affect the provisions pertaining to contractual penalties, late interest, protection of information, and provisions pertaining to those rights and obligations whose nature means that they are to continue even after withdrawal (this primarily includes the obligation to provide monetary performance for performance provided prior to the effectiveness of withdrawal). Upon the termination of this agreement for any reason, all rights and licenses provided and granted to the client shall also terminate with immediate effect. The further use of products with a license unlimited in time is regulated by the terms and arrangements of the licensing agreement supplied with such products and the specifications for use. The client cannot continue to use the provided services.

5.7. If the reason for invalidity only pertains to a certain provision of the Agreement or these General Terms of Business, only such provision shall be invalid, provided that its nature or content or the circumstances under which it was stipulated do not mean that it cannot be separated from the remaining content of the Agreement and the General Terms of Business.

5.8. The agreement constitutes the complete agreement of the contracting parties regarding the subject matter of this agreement including these General Terms of Business. The agreement can only be modified by way of a written agreement of the contracting parties in the form of numbered amendments.