

# Terms of Use Professional Services of the BOC Group

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## 1. Scope of Application

1.1.1. The following Terms of Use Professional Services form the underlying regulatory framework for all present and future agreements concluded between BOC Products & Services AG or its subsidiaries on the one hand (hereinafter collectively "BOC") and the client of BOC on the other hand after the 1<sup>st</sup> of September 2021 and concern the provision of professional services.

1.1.2. These Terms of Use shall apply to all legal relationships between the Parties even if they are not expressly referred to.

1.1.3. These Terms of Use Professional Services are part of the "General Terms and Conditions" of BOC (hereinafter referred to as "GTC"). In the event of conflicting provisions, the following order of precedence shall apply: 1. Provisions from the individual contract (offer), before 2. the relevant Terms of Use, before 3. the GTC.

1.1.4. The GTC as well as the Terms of Use are available at <https://www.boc-group.com/gtc>.

## **2. General Provisions**

### **2.1. Professional Services**

2.1.1. BOC generally offers the following services in particular:

- Software adaptations
- Consulting and technical services
- Trainings and Seminars
- E-Learning Courses

2.1.2. BOC performs the respective services using staff that are qualified to perform such services.

2.1.3. The respective services are rendered by BOC, depending on practicality, either at the client's location, at a third party or at one of the locations of BOC.

2.1.4. The client is subject to its obligation to cooperate in all manners facilitating the delivery of the ordered services and that are within the client's sphere of influence. Should delays arise due to the insufficient fulfilment of the client's duties of collaboration, the client shall bear the cost thereof.

### **2.2. Remuneration of Services**

2.2.1. According to the agreement, the respective services shall be charged either on a time and material basis or, if packages have been agreed, on a flat-rate basis.

2.2.2. If the remuneration takes place on a time and material basis, the work effort shall be charged proportionately at the offered person day rate (PD). In general, one person day is equivalent to 8 working hours.

2.2.3. If BOC incurs additional expenses due to omissions on the part of the client, these shall be charged to the client separately at cost.

2.2.4. Failure to comply with the agreed payments entitles BOC to cease the ongoing service delivery and optionally to also withdraw from the contract. All associated costs, as well as lost profits, shall be borne by the client.

2.2.5. Apart from this, the conditions of payment are based on the provisions of the GTC.

### **2.3. Travel Expenses**

2.3.1. Unless agreed otherwise, BOC charges the client travel expenses for trips that are required for service delivery at a time and material basis. For the reimbursement on a time and material basis, BOC will provide copies of the relevant receipts. Upon agreement, travel expenses can also be reimbursed with a daily flat-rate fee. This fee must be agreed on in an individual agreement and for individual contracts.

### **2.4. Withdrawal from Services**

2.4.1. If the client withdraws from agreed services, the client must reimburse any actual incurred costs as well as secondary cancellation costs (in particular, cancellation costs for booked event venues, catering, technical equipment, transport companies, travel expenses etc.).

2.4.2. For Trainings and Seminars, in addition to 2.4.1 the specific cancellation terms from section 5.3.2 apply.

### **3. Software Adaptations**

#### **3.1. General**

3.1.1. The functional and technical specifications of software adaptations, as well as the offer based on these specifications, are created in close cooperation between the client and BOC. The requirements and detailed specifications are defined bindingly in a specification sheet.

3.1.2. Should it emerge, in the course of the work, that the implementation of the order as set out in the performance specification is actually or legally impossible, BOC is obliged to immediately notify the client thereof. If the client does not amend the performance specification or create the conditions to enable the implementation, BOC may refuse to implement the order. If the implementation has been made impossible as a consequence of an omission by the client or a subsequent amendment to the performance specification by the client, BOC is entitled to withdraw from the order.

3.1.3. Work results shall be submitted to the customer insofar as this clearly results from the purpose and area of application of the Agreement. If the client does not notify BOC of any defects within 30 days of submission, the work result is deemed accepted as faultless.

3.1.4. Any potential occurring defects, i.e., deviations from the performance specification, as agreed in writing, must be communicated to BOC by the client and accompanied by sufficient documentation. BOC strives to remedy defects rapidly. If significant defects, which have been reported in writing, exist to the extent that actual operation cannot be commenced or continued, a new acceptance is required after remedying the defect.

3.1.5. The client is not entitled to refuse acceptance due to insignificant defects.

#### **3.2. Change Requests**

3.2.1. Both contractual parties may request changes to the agreed performance specification at any time ("change request"). The requested change must provide a precise description of the intended change, the reason for the change, the impact on the time scheduling, and the costs, in order to allow the recipient of the change request to make an appropriate assessment. A change request only becomes binding upon written acceptance.

#### **3.3. Deadlines and Delivery**

3.3.1. BOC strives to observe the agreed deadlines whenever possible. If necessary, fixed dates may also be agreed upon.

3.3.2. The target dates can only be observed if the client makes all necessary work and documents, in particular the performance specification accepted by the client, available in full and in a timely manner and fulfils the obligation to cooperate to the necessary extent.

3.3.3. Delays in delivery and cost increases resulting from incorrect, incomplete or subsequently amended details, and incomplete or incorrect information or documents made available, are not considered to be caused by BOC, thus do not constitute a delay attributable to BOC. If this results in additional costs, these shall be borne by the client.

3.3.4. For orders that comprise several units or parts, BOC is entitled to carry out partial deliveries and to submit partial invoices. Beyond this, advance payments may be agreed upon. Otherwise, the accounting shall take place with the delivery of the overall result.

#### **3.4. Rights of Use**

3.4.1. All intellectual property rights to software adaptations, in particular the copyright, are the exclusive property of BOC. This also applies if the software adaptations have been developed on the basis of instructions from, or under collaboration of, the client. The client shall receive the unlimited in time, non-exclusive and non-transferable right to use the software adaptations in the manner intended. This Right of Use may only be exercised in conjunction with a valid Right of Use for the standard software in a compatible version.

3.4.2. The cooperation of the client in creating the software adaption does not entitle the client to any rights beyond the use specified in the present contract.

### **3.5. Maintenance of Software Adaptations**

3.5.1. Client-specific adaptations are always developed for a specific version of the standard software. If the client decides to acquire a subsequent release of the software, it may require further adaptations in order to ensure the compatibility of the new version of the software with the previously established software adaptations. Unless otherwise agreed, expenses associated with such further adaptations shall be charged to the client separately according to the then current price list.

3.5.2. The maintenance of software adaptations is subject to a separate agreement. The maintenance section of the Terms of Use Subscription Services applies *mutatis mutandis*.

## **4. Consulting and Technical Services**

### **4.1. General**

4.1.1. Within the scope of consulting and technical services, BOC offers the following services in particular:

- Solution design
- Method conceptualisation and implementation
- General and client-specific product, method and user Trainings
- Implementation services and ongoing operational support
- Project-specific consulting services

4.1.2. The scope of a specific consultancy assignment shall be defined in individual agreements.

4.1.3. The client is responsible to ensure that, if the consultancy assignment is carried out on the client's premises, the organisational framework conditions allow the consultancy process to be conducted efficiently and with a minimum of disruption. Furthermore, the client shall present all the documents and information necessary for the fulfilment and implementation of the assignment in a timely manner and shall inform BOC of all events and circumstances that are relevant to the implementation. This also applies to all documents, events, and circumstances that first become apparent over the course of the service delivery.

### **4.2. Rights of Use**

4.2.1. Documents or materials made available by BOC in the scope of consulting or technical services may only be used in the context of the service in question. In particular, they may not be reproduced, published, distributed, used for commercial purposes or disclosed to third parties. In no event shall the intellectual property rights thereto be transferred.

## **5. Trainings and Seminars**

### **5.1. General**

5.1.1. BOC carries out modular standard seminars and standard trainings (hereinafter jointly referred to as "Training"). These Trainings are offered as open and as exclusive Trainings. The number of participants is limited to a maximum of 8 persons.

5.1.2. Open Trainings are conducted with a mixed group of participants from various client organizations and can be held virtually per conference call or in person.

5.1.3. Open Trainings may be booked for individual employees for a lump sum to be paid per participant. Open trainings are typically held on BOC premises and shall take place once a participant number of 4 persons has been reached. Registrations for open Trainings shall be taken into account according to the time at which they are received and become effective upon written confirmation.

5.1.4. Exclusive Trainings are conducted exclusively for participants of the client's organization and may be booked at a lump sum for all participants. Exclusive Trainings may be held optionally and upon

agreement on the premises of BOC, the client or on other premises, incl. virtual execution.

## **5.2. Rights of Use**

5.2.1. The Training fee includes the Right to Use the training documentation provided by BOC. This training documentation is designated exclusively for personal use by the participant and shall, in any case, remain the intellectual property of BOC. The documentation may not be reproduced, published, distributed, used for commercial purposes or disclosed to third parties.

5.2.2. Multimedia recordings (audio/video/photo) of Trainings are not permitted, unless an additional agreement in return for payment has been made.

## **5.3. Dates and Cancellations**

5.3.1. BOC reserves the right to change or cancel dates under observance of a two-week notification period, in particular, if the minimum number of participants for open Trainings has not been reached. In the event that BOC has to cancel a Training, BOC shall strive to offer the client an alternative date as promptly as possible. Claims for damages by the client due to cancellations by BOC are excluded.

5.3.2. The client may withdraw from a standard Training free of charge without providing reasons up to 28 days before the agreed date. For a withdrawal from 27 days to 8 days before the start of the Training, regardless of the reason for withdrawal, a cancellation fee amounting to 50% of the Training fee shall be charged. If the client withdraws 7 days before the start of the Training, does not show up to the Training or does not complete the Training in full, the entire Training fee shall be charged. If an open Training has been booked, the client has the right to appoint an internal representative to participate for the Training at any time. In order to observe the withdrawal period, the written notification of the exercise of the right to withdraw must have been received by BOC before the expiry of the withdrawal period.

## **6. E-Learning Courses**

### **6.1. General**

6.1.1. Access to E-Learning Courses can be purchased either for individual users (single seat) or as a package for several users (multi seat).

6.1.2. The access to a specific E-Learning Course expires automatically after the indicated time period from the purchase date. If no time period is stated, 3 Month apply.

6.1.3. In multi seat accounts, the main user can invite further users to register up to the purchased number of seats.

6.1.4. In order to be able to use this service, each user is obliged to register for the course.

6.1.5. The provided content is produced with best interest and care. Nevertheless, BOC is not liable for correctness, relevance and quality of the content, neither can BOC guarantee a learning or training success.

### **6.2. Right of Use**

6.2.1. BOC grants registered users, for whom the indicated fee was fully paid, a limited, non-exclusive, non-transferable license to view and display the E-Learning Courses and the related content for the agreed time period.

6.2.2. The content (training materials, graphics, videos, sample content, case studies, ...) should only be viewed by the registered person and it is strictly forbidden to record or reproduce the content in any way.