

# TARGIT PROFESSIONAL SERVICES

## GENERAL TERMS AND CONDITIONS

These general terms and conditions for Professional Services ("PS GTC") shall apply to Consulting Services to be provided by TARGIT A/S, Gasværksvej 24 2., 9000 Aalborg, Denmark ("TARGIT") to Customer pursuant to a Customer Service Request for such services.

(TARGIT and Customer individually a "Party" and collectively the "Parties").

**UNLESS OTHERWISE EXPLICITLY AGREED IN WRITING, THE CONSULTING SERVICES SHALL BE EXCLUSIVELY GOVERNED BY THESE PS GTC**

### 1. DEFINITIONS

1.1 In addition to terms defined elsewhere in the PS GTC, the following definitions shall apply:

**Affiliates:** any entity that, directly or indirectly, through one or more intermediaries, Controls or is Controlled by, or is under common Control with a Party, except that in countries where ownership of a majority or Controlling interest by a foreign entity is not permitted by law, rule or regulations, the foreign entity's direct or indirect voting interest may be less than a majority or Controlling interest.

**Agreement:** these PS GTC together with the applicable Customer Service Request

**Bulk Hours:** a pricing model where Customer purchases and prepay a fixed number of hours (no less than 80 hours) at agreed hourly rates, to be used for Consulting Services.

**Consulting Services:** any mutually agreed upon professional services, including consulting services, provided to Customer by TARGIT and/or its Affiliates and subcontractors under this Agreement.

**Control:** the ability, directly or indirectly, to direct the affairs of another by means of: (i) ownership of at least 50% (fifty percent) of the voting shares in any entity, or, in the case of an entity that has no outstanding securities, having the right to 50% (fifty percent) or more of the profits of the entity, or having the right in the event of dissolution to 50% (fifty percent) or more of the assets of the entity; or (ii) by contract or otherwise.

**CSR or Customer Service Request:** a request by Customer to TARGIT for Consulting Services through a purchase order, agreement, through any used support system, or statement of work, specifying the Consulting Services to be provided.

**Customer:** the customer according to the CSR

**Fixed Price:** a pricing model where Customer and TARGIT agrees a fixed price for a specific defined scope of Consulting Services. Requests for changes to the agreed and defined scope of Consulting Services may

impact the fixed price, timeline and/or deliverables, and must be assessed by TARGIT and approved by Customer before they are initiated. Requests for changes can be raised by both Customer and TARGIT.

### Intellectual Property Rights:

- (a) copyright, rights affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trademarks, rights in internet domain names and website addresses and other rights in trade names, designs, know-how, trade secrets and other rights in confidential information (cf. Clause 9), including under marketing legislation and legislation on protection of trade secrets; and
- (b) applications for registration, and the right to apply for registration, for any of the rights listed in item (a) that are capable of being registered in any country or jurisdiction; and
- (c) all other rights having equivalent or similar effect in any country or jurisdiction in the world.

**Pay As You Go:** TARGIT's pricing model for payment for Consultancy Services monthly in arrears based on actual hours spent at TARGIT's applicable standard hourly rates or as otherwise explicitly agreed

**TARGIT Legal Site:** <http://www.targit.com/legal> on which Customer may find relevant terms and conditions and other material of legal relevance.

**TU (TARGIT University):** TARGIT's training services to Customer prepaid by Customer under the applicable CSR.

**Working Hours:** From 8:00 – 16:00 CET Monday to Friday, except public holidays in Denmark and 5 June, 24 December, and 31 December.

## 2. DELIVERY OF CONSULTING SERVICES

2.1 TARGIT shall provide Consulting Services in a workmanlike manner in accordance with generally accepted industry standards.

2.2 Consulting Services may, at TARGIT's discretion, be provided remotely at the facilities of TARGIT and/or its Affiliates and subcontractors, or on-side at Customers facilities, unless otherwise agreed.

2.3 Except as specifically agreed, TARGIT shall provide Consultancy Services during Working Hours, only.

2.4 If, TARGIT has provided Customer with an estimate of TARGIT's price or time usage, such estimate shall be applicable with a variation of +/-25%. However, if the Consultancy Services are changed due to circumstances attributable to Customer and TARGIT has notified Customer thereof within reasonable time, TARGIT's originally provided estimates shall be considered as non-binding.

## 3. PRICING TERMS

3.1 TARGIT shall provide Consulting Services to Customer under one or more of the following four models as further agreed in the Agreement: (a) Pay as You Go, (b) Bulk Hours, (c) TU and/or (d) Fixed Price for a specific project.

3.2 To the extent that Customer has prepaid the Consulting Services (i.e., Bulk Hours or TU), Customer accepts that its right to use such hours shall expire at the earliest of (i) 12 (twelve) months from the date of purchase and (ii) expiry or termination of the Agreement.

3.3 Any Consultancy Services ordered by Customer to be delivered outside of Working Hours shall count as double the actual time used, e.g., 1 hour used shall count as 2 hours used.

3.4 If Consulting Services are to be performed at the facilities of Customer, a minimum of 6 hours will be charged. Additionally, Customer shall reimburse TARGIT for TARGIT's reasonable travel-related expenses subject to documentation thereof as Customer may reasonably require.

3.5 If booked Consultancy Services are postponed or cancelled due to circumstances attributable to Customer, TARGIT shall be entitled to regard the booked time as duly used by TARGIT as follows:

Time of Cancellation	Deemed use
Cancellation 7 working days or more before the agreed booking:	None
Cancellation less than 7 working days before the agreed booking:	40%
Cancellation less than 48 hours before the agreed booking:	60%

Cancellation less than 24 hours before the agreed booking:	100%
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## 4. INVOICING AND PAYMENT

4.1 TARGIT's payment terms are 30 days net and Customer shall make payments in the manner and to the account as specified on TARGIT's invoice. Customer's delay with payment of any amount due shall be subject to interest at the rate of 2 % (two per cent) per month. For each payment reminder after the due date, up to 4 (four) times in 8 (eight) weeks, TARGIT may charge a fixed fee of DKK 250 (approx. EUR 33.60).

4.2 All prices and fees set out in the Agreement are excluding VAT, if any, at the statutory rate applicable from time to time. Any and all indirect taxes, customs, duties, or charges as well as consular or legalization fees possibly levied shall be added at their applicable rate to the prices and fees set out in the Agreement.

## 5. CUSTOMER OBLIGATIONS

5.1 Customer shall cooperate with TARGIT in performing the Consulting Services and shall provide such access to its information, personnel, and premises, including remotely, as may be reasonably required to enable the timely performance of the Consulting Services. Customer is responsible for the completeness and accuracy of all information provided to TARGIT.

5.2 Before TARGIT commences any work on Customer's systems, Customer shall use all reasonable efforts to avoid and reduce damages and shall make backup copies of all software, data, documentation, and other valuable information. TARGIT does not assume any responsibility for being able to restore Customer's systems to their original operating state as it existed prior to the commencement of work, or the costs associated with doing so.

5.3 Customer warrants that neither TARGIT nor its consultants/instructors will incur any liability to any third party or public authorities as a result of Customer's instructions, and that Customer will not make any instructions to TARGIT violating applicable law and general decency.

5.4 Customers shall indemnify TARGIT and its consultants and instructors for any claim made against them by a third party due to Customer's instructions.

## 6. INTELLECTUAL PROPRIETARY RIGHTS

6.1 Unless otherwise agreed, all Intellectual Property Rights, in any work of any nature made, written, designed, or produced by TARGIT, which arise in connection with and during the provision of Consulting Services shall be owned by TARGIT upon creation, and Customer shall receive a royalty free and perpetual license to use it in its own business.

6.2 Any pre-existing Intellectual Property Rights of TARGIT shall remain the property of TARGIT. Where included in any results delivered to Customer, TARGIT grants to Customer receives a royalty free license to such

Intellectual Property Rights to the extent necessary for Customer's use of the results in the agreed manner.

## **7. PROCESSING OF PERSONAL DATA**

7.1 Each Party shall comply with the obligations that apply to it under the Regulation (EU) 2016/679 of European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC ("GDPR").

7.2 In case of TARGIT's provision of remote support to Customer, Customer shall limit the access to Customer's data as much as possible and ensure that user support is provided by processing the least possible amount of personal data.

7.3 To the extent that TARGIT is required to process personal data on behalf of Customer in a manner as defined in GDPR in order to provide the Consulting Services, the Parties shall enter into TARGIT's standard data processing agreement as available on the TARGIT Legal Site for any and all such processing, if not already agreed. TARGIT may refuse to enter into any other data processing agreement and shall not incur any liability to Customer for such rejection.

7.4 If TARGIT is to gain access to personal data, Customer is responsible for entering into the data processing agreement described in Clause 7.3 prior to granting TARGIT access.

7.5 If TARGIT is considered a data processor without having agreed thereto under Clause 7.3, Customer shall indemnify TARGIT for the full amount of data subjects' claims and for TARGIT's costs for any legal proceedings, and any other reasonable internal and external costs, pertaining to the handling of or defense against the data subjects' claim.

## **8. DISCLAIMERS**

8.1 Except as expressly provided herein, the Consultancy Services are provided "as is" and TARGIT makes no express warranties, written or oral, and all other warranties are specifically excluded, including but not limited to the implied warranty of merchantability, fitness for a particular purpose or non-infringement, and any warranty arising by statute, operation of law, course of dealing or performance, or usage of trade.

## **9. CONFIDENTIALITY**

9.1 Each Party undertakes not to disclose to any third party without the consent of the other Party any information received from the other Party, including its business, which can reasonably be deemed to be of a confidential nature, including trade secrets and information which is covered by any statutory duty of secrecy, including under legislation implementing EU Directive 2016/943 on the protection of trade secrets. Information stated by one of the Parties to be

confidential shall always be deemed to constitute confidential information.

9.2 The Parties' confidentiality obligations under this Clause 9 shall not apply to trade secrets or any other confidential information which the receiving Party can demonstrate (i) is already known when received, (ii) is or has become public knowledge other than through breach of this PS GTC, (iii) is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure, or (iv) is to be made publicly available due to a court order, a decision by a public body or as otherwise required by mandatory law.

9.3 Each Party agrees to impose on its employees and consultants, in an appropriate manner, the obligations of confidentiality under this Clause 9. The Parties shall ensure that any subcontractors engaged, together with any of their employees involved in the assignment, sign a confidentiality undertaking containing equivalent provisions to the benefit of the other Party.

9.4 The Parties' obligations under this Clause 9 shall be valid for a period of five (5) years after TARGIT's most recent provision of Consulting Services to Customer.

## **10. LIMITATION OF LIABILITY**

10.1 Except as otherwise provided in Clause 8, TARGIT's total liability and customer's sole and exclusive remedy for any claim of any type whatsoever, arising out of these PS GTC, shall be limited to the documented direct damages caused by TARGIT's sole negligence in an amount not to exceed the lowest of (i) the fees paid or payable for the Consultancy Services pursuant to the Agreement and (ii) DKK 100,000.

10.2 TARGIT shall not be liable for any special, incidental, indirect, consequential, or punitive damages or injury including, but not limited to, loss of profits, contracts, revenue, internal use of time, increased consumption of resources, loss of data, computer failure or malfunction, arising out of, in connection with or as a result of a breach of this Agreement.

10.3 Nothing in these PS GTC excludes or limits either Party's liability to the other for liability arising from a Party's willful misconduct or gross negligence.

10.4 The limitations in this Clause 10 shall apply to liability for negligence, regardless of the form of action, whether in contract, tort, equity, at law, strict product liability, or otherwise; and even if TARGIT has been advised in advance of the possibility of such damages, if such damages were foreseeable, and if Customer's other remedies fail in their essential purpose.

## **11. TERMINATION FOR CONVENIENCE**

11.1 This Agreement shall remain in effect until terminated by either Party with thirty (30) days' written notice to the other Party, except that TARGIT shall not be entitled to terminate the Agreement for convenience in respect of Bulk Hours or TU before the expiry of the period set out in Clause 3.2.

11.2 Unless otherwise agreed, Customer shall be liable for payment to TARGIT for all Consulting Services provided through the effective date of termination, and

additionally if Customer is the Party terminating, all actual direct costs of TARGIT resulting from the termination.

## 12. TERMINATION FOR CAUSE

12.1 Either Party may terminate this Agreement for cause by giving written notice of termination to the other Party (the "**Breaching Party**"), if the Breaching Party commits a breach or a series of breaches of these PS GTC that individually or collectively are deemed material and, provided such breach(es) are capable of remedy, the Breaching Party has failed to remedy it/them following receipt of a written notice from the other Party within 30 (thirty) days from the date of the written notice.

12.2 Any delay by Customer of its payment shall be deemed a material breach.

## 13. FORCE MAJEURE

13.1 Subject to the remaining provisions of this Clause 13, TARGIT may claim relief from liability for non-performance of its obligations to the extent this failure is due to any events happenings or non-happenings outside TARGIT's control, which TARGIT could not reasonably be expected to have taken into account at the time of the conclusion of these PS GTC, or to have avoided or overcome it or its consequences, including: fires, explosions, natural disasters, war, acts or threats of terrorism, riots, commotion, strikes, lock outs or disorder, or pandemics ("**Force Majeure Event**"). The Covid-19 pandemic of 2020 shall be considered a Force Majeure Event if, due to governmental restrictions or logistical restrictions imposed by third parties, TARGIT is prevented from performing its obligations without using unreasonable commercial effort. The affected Party is, however, always obligated to mitigate the effects of a Force-Majeure Event.

13.2 Upon the Force Majeure Event ending, these PS GTC shall continue to be performed on the terms existing immediately before the occurrence of the Force Majeure Event, unless otherwise agreed.

## 14. RELATIONSHIP OF PARTIES

14.1 The Parties are independent parties and nothing in this Agreement shall in any way be construed to constitute TARGIT as an agent, employee, or representative of Customer, but TARGIT shall perform the Consulting Services hereunder as an independent contractor. Neither shall this Agreement be deemed to establish any partnership, joint venture, or other formal business between the Parties.

## 15. MISCELLANEOUS

15.1 **Compliance with laws:** Each Party shall comply with all laws, rules, and regulations, if any, applicable to it in connection with the performance of its obligations under the Agreement.

15.2 **Precedence:** In the event of conflict between the PS GTC and any other document referred to herein and provided the Parties have not explicitly agreed to deviations to these PS GTC, the conflict shall be resolved

in accordance with the following order of precedence: (i) PS GTC, (ii) CSR, (iii) any other document.

15.3 **Assignment, Transfer, Novation and Change of Control:** Customer shall not be entitled to assign or transfer any of its rights and obligations under these PS GTC. TARGIT shall be entitled to assign its rights and obligations under these PS GTC to (i) a third party, provided that such assignment is done as part of TARGIT's divestment of a considerable part of its assets to such third party, or (ii) to an Affiliate.

15.4 **Severability:** If a provision of the PS GTC is held to be unenforceable in any respect by a court of competent jurisdiction, then that provision is, if permitted by law, to be construed by modifying it to the minimum extent necessary to make it enforceable, or if not permitted, to be disregarded. If disregarding a provision would result in a material failure of the essential purpose of this PS GTC the entirety of this PS GTC shall be held unenforceable, and Customer's rights to use the Consulting Services shall end immediately without TARGIT incurring liability.

15.5 **Notices:** Any notice to be given by a Party in writing shall be deemed effective when sent either (a) via e-mail to the e-mail addresses provided that the sending Party tracks delivery of the message and does not receive any error message and that the sending email account indicates that the email was sent to the correct address or (b) by registered courier service to the other Party's mailing address.

15.6 **Applicable Version and Amendments:** These PS GTC shall be applicable in the version (identified in the top right corner hereof) published on the TARGIT Legal Site on the date of the latest applicable CSR for all Consulting Services subsequently provided. TARGIT may make amendments to the PS GTC from time to time in its discretion and publish the new version on the TARGIT Legal Site. Such new version of the PS GTC shall replace any previous version of the PS GTC in its entirety as of the date of any addenda, amendment, or replacement to or of the CSR, however only for Consulting Services subsequently provided and except if otherwise explicitly agreed therein.

15.7 **Waiver:** Either Party's failure or delay to insist on performance of any of these Agreement terms or to exercise any of its rights or privileges will not waive any other terms, conditions, or privileges, whether of the same or similar type.

15.8 **Survival of Provisions:** The provisions of these PS GTC that are intended to survive termination or expiration in order to achieve the fundamental purposes of the PS GTC shall so survive, including, without limitation, the provisions regarding Intellectual Property Rights, payment of outstanding amounts, disclaimer of warranties, and limitation of liability.

## 16. GOVERNING LAW AND ARBITRATION

16.1 This Agreement shall in all respects be governed by, and construed and interpreted, in accordance with the substantial Laws of Denmark with the exclusion of

the United Nations Convention on the International Sale of Goods (CISG, The Vienna Convention)

16.2 Any dispute arising out of or in connection with the Agreement, including any disputes regarding the existence, validity, or termination thereof, which is not resolved by negotiation or mediation within ten (10) days from commencement thereof (save if a longer period of time is explicitly agreed), shall be settled by arbitration in Copenhagen, Denmark, by the Danish Institute of Arbitration in accordance with their rules in force at the time of the initiation of the proceedings. The proceedings shall be subject to confidentiality. The award or decision made by the arbitration tribunal shall be final and conclusive and have binding effect upon the Parties to the arbitration and can be enforced in the same manner as a judgment or order of a court of competent jurisdiction. Considering the result of the arbitration, the arbitration tribunal shall decide upon the extent to which the winning Party shall be entitled to reimbursement of its reasonable costs, fees and expenses for legal assistance, other advisors and otherwise incurred in connection with the arbitration itself, from the other Party.

16.3 By submitting to arbitration, the Parties to the arbitration do not intend to deprive any court of in any jurisdiction to issue, at the request of one of the Parties, a pre-arbitral injunction, pre-arbitral attachment, or any order in aid of the arbitration proceedings and the enforcement of any award.