

GENERAL TERMS & CONDITIONS FOR PARTNERS

I. Scope and formal requirements

1. These General Terms & Conditions ('GTC') as amended serve as the basis of all legal transactions between DataStore AG ('DataStore') and its contractual partner ('Partner'). Any deviating terms and conditions of the Partner are valid only if recognized in writing by DataStore.
2. DataStore reserves the right to amend these GTC unilaterally if necessary. DataStore publishes the currently valid version of its GTC on its website or shall notify the Partner of amendments. From publication on the website of DataStore, the amended GTC apply to all contracts concluded between the parties.
3. All amendments and supplements to an agreement must be made in writing, even if the agreement in question was concluded in a different manner. If the parties have agreed on a written form requirement in the contract or these GTC, correspondence by email and fax shall be considered compliant with the requirement.

II. Conclusion of contract and contractual content

1. A contract is deemed concluded on receipt by the Partner of the written order confirmation from DataStore, on the mutual signature of an individual agreement, or on receipt of the services by the Partner or its customer (for direct services), depending on which of these occurs first. As a rule, quotations from DataStore are non-binding statements of its willingness to enter into a contract and can be adjusted subsequently; i.e. if a vendor or sub-supplier changes its prices or conditions.
2. A written contract or order confirmation from DataStore shall fully replace all previous explicit or tacit agreements, promises, or quotations relating to the same object between the parties.
3. Information in brochures, catalogues and technical documents is binding only if it has been confirmed in writing. DataStore shall not be affected by obligations entered into by the Partner related to its customers that DataStore has not recognized in writing.
4. The Partner undertakes to ship products and software only to end customers that have been confirmed in writing and to comply with the relevant vendor's conditions as an integral component of the agreement between the parties. If asked for relevant documentation (particularly end customer evidence, such as delivery orders or invoices) by DataStore or the vendor, the Partner must comply immediately or within 5 days at the latest. DataStore is entitled to make its deliveries and services contingent on the fulfilment of this obligation by the Partner.
5. DataStore's Code of Conduct published on the website of DataStore is an integral part of every agreement between the parties, and the Partner is obliged to comply fully with the relevant provisions (in particular, the anti-corruption guidelines).

III. Deliveries and installations

1. The Partner must bear the costs of transport and installation of products if DataStore does not expressly cover them. Unless agreed otherwise, DataStore shall invoice these costs separately. DataStore is entitled to carry out partial deliveries.
2. Unless expressly agreed otherwise, the dates and deadlines for the delivery of products and software shall be consistent with the specifications of the vendor.
3. In so far as legally permissible, DataStore rejects all legal consequences and liability for late deliveries and services of any kind caused by delays on the part of a vendor, supplier or any other third party. Wherever possible, DataStore shall notify the Partner of such delays in due course.
4. If a service or delivery is delayed for any reason other than those described in section III.3, DataStore is entitled to a warning and an extended deadline. If the contract is not executed within the later deadline for reasons for which DataStore is responsible, the customer is entitled to withdraw from the contract. If individual services/deliveries or parts thereof are delayed, the right of withdrawal of the customer shall be limited to the delayed partial performance. The right of withdrawal shall expire on the start of the installation work or other agreed services, even if the work cannot be completed on schedule.
5. All other rights of the Partner related to delayed delivery or services are expressly excluded in so far as is legally permissible. In particular, the Partner is not entitled to claim compensation for losses suffered due to delayed deliveries or services.
6. In regard to installations and other services of DataStore, the Partner and its end customer must punctually provide the relevant locations in line with the instructions of DataStore and, at its own expense, ensure installation of all necessary technical equipment (e.g. electricity supply and air conditioning). If the installation of the service is delayed due to a breach of this duty by the Partner or its end customer, the delivery deadline shall be extended reasonably and the price agreed in the individual contract shall become payable in full and immediately.

IV. Software

1. Unless agreed otherwise, when software is licensed, the customer shall be granted the non-transferable, non-exclusive right for its own use in exchange for a fee.
2. The software may be used only in its defined configuration or on the system platform defined by the parties. If the software is used on a network, it may be used only by the defined number of simultaneous users. If the parties do not provide any specific details in terms of this number, it must be interpreted and derived from the agreed purpose of the software.
3. Unless counteracted by mandatory statutory regulations, no additional copies may be made of the software and neither the

customer nor third parties may modify or process it. The customer undertakes not to transfer, lend or make the software available or otherwise accessible to third parties, either fully or in part. With the exception of the right of use described in section IV.1, DataStore or any licensor of DataStore retains all rights to the software.

4. If third-party software is supplied with valid terms of license, they shall take precedence over IV.1 to IV.3 for said third-party software. However, they shall remain valid on a subsidiary basis.
5. DataStore shall render services in connection with a license – e.g. the development and adaptation of software for customer-specific requirements, advisory support with the installation, set-up and use of software, and the introduction and training of personnel – in exchange for separate remuneration under a separate agreement. If the remuneration is not defined explicitly, its amount shall represent the amount usually paid for the services in question.

V. Prices and terms of payment

1. All prices are net and in Swiss francs, exclusive of VAT and any other deductions; i.e. the Partner must bear all ancillary expenses, such as packaging, transportation, insurance, taxes and duties. Other invoice currencies require the written consent of DataStore. Any indirect taxes that become applicable after the conclusion of the contract, including an increase in VAT, must be borne by the Partner or the end customer.
2. The Partner undertakes to pay the price set out in the individual contract, which shall become payable 30 days after the shipment is dispatched by DataStore or after the service is delivered.
3. The payment deadlines must be met even if the transportation, dispatch, installation, set-up or acceptance of the deliveries and services are delayed or rendered impossible for reasons for which DataStore is not responsible, and even if non-essential components are missing or subsequent work proves necessary that do not render the use of the deliveries and services completely impossible. In particular, the Partner must settle the invoices of DataStore even if its end customer has not yet paid or if the delivery or service is defective as described above.
4. If the Partner is in arrears with a payment or the provision of collateral for any reason, or if DataStore is legitimately concerned that it will not receive payments or collateral from the Partner either in time or in full due to circumstances that occur after the conclusion of a contract, DataStore is entitled, without restricting its statutory rights, to discontinue the further execution of the contract and withhold deliveries that are ready for dispatch.
5. If a payment is not rendered on time, the Partner must pay interest of 8% from the date of the agreed due date without receipt of a warning; additionally, after setting an extended deadline, DataStore can exercise all the rights set out in Art. 107 et seq. OR. If it withdraws from the contract, the customer is obliged to pay DataStore a contractual penalty equal to 10% of the contractual sum. The duty to pay the contractual penalty exists regardless of whether the Partner was responsible for the

default. A claim of the contractual penalty does not prevent DataStore from a claim of additional compensation in excess of the contractual penalty.

6. DataStore reserves the right to make a delivery or partial delivery contingent on payment in advance or cash, and to make outstanding receivables payable immediately by notification to the Partner if DataStore believes that the financial situation of the Partner does not justify or no longer justifies the provision of credit. If the Partner is declared insolvent, bankrupt or if liquidation proceedings are initiated, all outstanding receivables shall become payable automatically.

VI. Warranty

1. DataStore guarantees that products will be delivered in line with the specifications of the vendor and that services will meet the agreed specifications when handed over. Under no circumstances will DataStore provide a warranty for uninterrupted functionality, for functionality within an IT system or with a specific application, or for suitability for a specific purpose.
2. DataStore guarantees that software provided by third-party companies is capable of performing the functions described by the vendor if used in the specified configuration or system platform. In regard to the services defined in section IV.5 of these GTC, DataStore guarantees that they will meet the agreed specifications and be rendered with due professional care.
3. The warranty period matches the period specified by the vendor. If no such period has been specified, the warranty period shall be 12 months from the date on which a product is dispatched, the service is completed or the software is shipped by DataStore. The warranty shall expire prematurely if the Partner or its end customers use deliveries or services improperly.
4. The Partner must inspect the products, services and software within the period set by the vendor (within seven working days of the start of the warranty period at the latest), report any defects to DataStore immediately and in writing, and comply with the defect reporting process of the vendor or sub-supplier. If the Partner fails to do so, the deliveries, services and software shall be deemed accepted.
5. If products, services or software prove to be non-contractual, DataStore can either deliver a replacement free of charge or carry out subsequent improvement within a reasonable deadline.
6. DataStore accepts liability of up to CHF 5 million per instance of damage for direct damage suffered by the Partner or its end customer in connection with the non-contractual nature of deliveries, services or software for which DataStore was responsible. However, under no circumstances can DataStore be held liable for indirect or consequential damage, such as lost earnings, loss of data, recovery of destroyed data, third-party claims, or damage caused by the failure of the end customer to meet its contractual obligations.
7. DataStore can be held liable for breaching any secondary duties relating to delivery of products or software (e.g. inadequate advice) only in cases of unlawful intent or gross negligence.

8. The Partner or its end customer is obliged to follow the warranty procedure of the vendor in order to exercise its warranty rights. If no vendor's warranty procedure exists, the products and software affected must be returned to DataStore. If they cannot be returned, DataStore shall fulfil its warranty obligations at the place of shipment. DataStore shall examine the returned goods to see whether their condition matches the description provided by the Partner on return. If a deviation is identified, DataStore reserves the right to return the goods to the Partner at the expense of the Partner. Returns made without compliance with the vendor's procedure shall be at the expense of the Partner, and DataStore may refuse acceptance or return the goods unchecked to the sender and at the expense of the sender.
9. The scope of the warranty of DataStore is described conclusively in section VI. If products, services and software prove to be in violation of the contract, the Partner shall have no rights or claims beyond those described in section VI.
10. If vendors or sub-suppliers of DataStore provide for more restrictive warranty conditions than those in section VI, the warranty provided by DataStore shall be within the scope of the warranty obligations assumed by the vendors or sub-suppliers. The Partner confirms that the relevant warranty provisions have been reviewed before conclusion of the contract.

VII. Other breaches of contract by DataStore

1. These provisions conclusively govern all cases of breaches of contract and their legal consequences, as well as all claims of the Partner, regardless of their legal grounds. In particular, all claims for damages, price reductions, or dissolution of the contract that have not been specified explicitly are excluded.
2. This disclaimer does not apply to unlawful intent or gross negligence on the part of DataStore, but it is valid for unlawful intent or gross negligence on the part of auxiliary persons.

VIII. Transfer of benefits and risks

1. The benefits and risks shall transfer from DataStore to the Partner when products and software are dispatched. If DataStore is to carry out delivery and installation, the benefits and risks shall transfer to the Partner when the installation is complete.
2. If dispatch of the delivery is delayed for reasons for which DataStore is not responsible, the risk shall transfer to the Partner on the original scheduled dispatch date or when the Partner was notified that the goods were ready for collection.

IX. Export

1. The export of deliveries by the Partner and/or end customer are subject to the specifications of the vendor and international export regulations. If necessary, the Partner undertakes to obtain an export license from the vendor and the relevant authorities (currently, the Swiss State Secretariat for Economic Affairs (SECO)).

2. The Partner must ensure that exported products are registered correctly at the vendor in order to ensure its maintenance and warranty obligations.

X. Miscellaneous

1. The Partner consents to any transfer of the rights and obligations of DataStore under the contract to a third party. The Partner may not transfer its rights and obligations without the written consent of DataStore. However, in regard to its contractual relationship with its customer, the Partner undertakes to transfer the duties arising from the agreement with DataStore to the customer by imposition of another duty of obligation.
2. The Partner undertakes to treat prices, price lists and other confidential data and information (e.g. discounts, dealer margins, and standard remuneration) of DataStore as confidential and to use them only as part of its standard contractual relationship with DataStore. This obligation shall remain in effect indefinitely and without restriction, even after the termination of the contractual relationship between the Partner and DataStore.
3. The customer may view DataStore's privacy policy at <https://www.datastore.ch/en/privacy/> at any time. This forms an integral part of these GTC.

XI. Force majeure

1. DataStore cannot be held liable if a case of non-fulfilment or default is based on force majeure. Instances of force majeure include war, civil unrest, business disruptions, shortages of energy or raw materials, strike, lockouts, traffic disruptions and the effects of public violence. Such events shall release DataStore from its duty to carry out delivery for the duration of the disruption and its effects, and when circumstances return to normal entitle DataStore to either deliver the agreed quantity accordingly later or withdraw from the contract in respect of as yet undelivered quantities.
2. If an instance of force majeure lasts longer than 30 days, the Partner is entitled to withdraw from the contract as long as the products have not yet been delivered.

XII. Applicable law and place of jurisdiction

1. This Agreement is subject to Swiss law, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG). The registered office of DataStore is the place of exclusive jurisdiction.

Last amended: July, 2021