

Date: Feb. 2020



## GENERAL TERMS AND CONDITIONS OF BUSINESS

### P<sup>3</sup> Security GmbH

#### Scope

These General Terms and Conditions of Business (hereinafter: General Terms and Conditions) apply to all service contracts concluded between us (hereinafter: “P<sup>3</sup>”),

#### P<sup>3</sup> Security GmbH

Frühlingstr. 22, 85221 Dachau, Germany,

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Munich Municipal Court – Registry Court – Commercial Register No.: HRB 211249

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and you as our Customer (hereinafter: “Customer”). The General Terms and Conditions apply regardless of whether you are a consumer, entrepreneur or merchant.

All agreements made between you and P<sup>3</sup> arise in particular from the general service contract, the associated individual orders/specifications and these General Terms and Conditions, whereby the version of the General Terms and Conditions valid at the time of conclusion of this Agreement is authoritative.

P<sup>3</sup> does not accept deviating conditions of the Customer. This provision shall also apply if P<sup>3</sup> does not explicitly contradict the inclusion of any customer terms and conditions. Any deviating or conflicting conditions shall only apply if they have been expressly recognised by P<sup>3</sup> in writing.

The following General Terms and Conditions use the masculine form of the term “Customer” exclusively to simplify readability. The exclusive use of the masculine form is to be explicitly understood as gender-independent.

#### 1. General performance of service

- 1.1 As a security company, P<sup>3</sup> operates a security business within the scope of § 34a GewO (German Industrial Code) and has the appropriate official authorisation to run this business. P<sup>3</sup> carries out its security services in the form of the provision of security guards, factory protection and property protection, event protection, personnel and escort protection and emergency or special services. P<sup>3</sup> carries out transports of money and valuables, operates shuttle services, develops safety analyses and advises on safety technology issues.
- 1.2 After consultation with the customer, the security service employees shall wear service clothing (black suit, black shirt, gold tie or black trousers, polo shirt, sweater, rain or winter jacket, each with the imprint P3 Security), to be provided according to the number of security personnel ordered by the customer.
- 1.3. The property protection service is usually carried out by one or more security personnel who are specifically assigned to this property.
- 1.3 Special services are listed separately prior to the conclusion of this Agreement, including personal assistance and protection services, the transport of money and valuables, the operation of alarm and emergency call centres (service centres), as well as the provision of cashier, ordering and supervision services for exhibitions, trade fairs, events and other services.
- 1.4 P<sup>3</sup> provides its activities explicitly as a service (no employee assignment according to the German Law on the Professional Assignment of Employees of 7 August 1972 in the current version), whereby it makes use of its personnel as vicarious agents. The selection of the employed personnel and the right to issue instruction lie – except in case of imminent danger – with P<sup>3</sup>.
- 1.5 P<sup>3</sup> is solely responsible for the fulfilment of all legal, official, social and trade association obligations towards its employees.

## 2. Round regulations /service instructions

In individual cases, only written round regulations/service instructions are authoritative for the rendering of the service. In accordance with the instructions of the Customer, they shall contain detailed information relating to the tours, inspections and other services to be rendered. Amendments and supplements to the round regulations /service instructions must be made in writing. Where required by unforeseeable emergency situations, the planned checks, rounds and other services may be omitted in individual cases.

## 3. Obligations of the Customer

- 3.1 The Customer is responsible for giving the individual orders in a clear and understandable manner.
- 3.2 The Customer is obliged to cooperate, insofar as necessary for the proper completion of the respective individual order. He shall ensure that P<sup>3</sup> has unrestricted access to buildings and facilities to the extent required. In particular, the Customer shall hand over to P<sup>3</sup>, without being prompted, all documents, cards, keys and other possible resources needed for the performance of the individual order in full, free of charge and, in any case, in a timely manner or to provide emergency addresses, telephone numbers and contact persons in such sufficient time as to ensure that P<sup>3</sup> has an appropriate period of preparation and familiarisation. The same shall apply to the instruction of all operations and circumstances which may be relevant for the execution of the individual contract.
- 3.3 In addition, the Customer shall draw attention to any special risks and hazards involved in the rendering of the services, including particularly valuable goods.

## 4. Complaints

- 4.1 Complaints of any kind relating to the performance of the service (such as non-commencement of the service, delays, poor rendering of the agreed security services, etc.) must be reported to the management of P<sup>3</sup> without delay, both by telephone and in writing, for the purpose of remedying the situation. In the event of untimely or failed notification, rights arising from such complaints cannot be asserted.
- 4.2 Repeated or gross violations in the rendering of the service shall entitle the Customer to terminate this Agreement without notice only if P<sup>3</sup> does not provide a remedy within a reasonable period of time – at the latest within seven working days – after written notification.

## 5. Householder's and detention rights

The employees of P<sup>3</sup> are assigned the householder's and detention rights of the Customer for the duration of the rendering of the service.

## 6. Use of third-party companies

In agreement with the Customer, P<sup>3</sup> shall be entitled to use approved and reliable companies to fulfil its obligations in accordance with § 34a GewO. P<sup>3</sup> shall determine the manner in which the order is fulfilled independently according to dutiful discretion.

## 7. Interruption of service

- 7.1 In the event of war or strike, unrest and other cases of force majeure, P<sup>3</sup> may interrupt or modify the service to the extent that its rendering becomes impossible.
- 7.2 For the duration of the interruption, the Customer is proportionally exempt from payment of the agreed remuneration. Further Customer claims are excluded.

Date: Feb. 2020

## 8. Premature termination of contract

In case of a move by the Customer or in case of a sale or other abandonment of the object or subject matter of this Agreement, the contractual relationship may be terminated by either Party with a notice period of one month.

## 9. Legal succession

9.1 In the event of the death of the Customer, his legal successor enters into this Agreement, unless the subject matter of this Agreement was primarily designed for personal interests, in particular the protection of the Customer's person.

9.2 The contract is not affected by death, other legal succession or changes in law.

## 10 Liability

10.1 P<sup>3</sup> shall be liable to the Customer for any damages that arise in connection with the rendering of the service, only in accordance with the following provisions. In all other respects, liability is excluded.

10.2 P<sup>3</sup> shall be liable without limitation

a. in case of intent or gross negligence

b. within the scope of a guarantee expressly provided by P<sup>3</sup>

c. for injury to body, life or health

d. for the violation of an essential contractual obligation, the fulfilment of which enables the proper execution of this Agreement in the first place and on whose compliance the contractual partner regularly trusts and can trust ("cardinal obligation"), but limited to the damage reasonably expected at the time of the conclusion of this Agreement

e. according to the German Product Liability Act

10.3 In cases of simple (minor) negligence, P<sup>3</sup> is not liable for indirect or unforeseeable damages or consequential damages (in particular not for pure economic loss, lost profit, reduction of goodwill and similar damages). In addition, P<sup>3</sup> shall be liable in such cases to a maximum of the amount of operating liability insurance coverage specified in clause 13 if the coverage amount covers the risk of damage typical for this Agreement. Insofar as the company liability is exempted from its performance, P<sup>3</sup> shall only be liable for the foreseeable damage typical for this Agreement. The claims referred to in this paragraph 3 are subject to a statute of limitations of one year. There is no further liability of P<sup>3</sup>.

10.4 Any further liability for damages other than the situation provided for in sections 10.1 – 10.3 is excluded – regardless of the legal nature of the claim. In the cases referred to in section 10.4, recourse to P<sup>3</sup> is excluded.

10.5 These liability rules also apply mutatis mutandis to the conduct of and claims against employees, legal representatives, vicarious agents and agents of P<sup>3</sup> and any subcontractors.

## 11. Assertion of liability claims

11.1 Claims for damages and claims arising from the services shall be made in reasonable detail and in writing against P<sup>3</sup> within a period of 4 weeks after the claimant, his legal representatives or vicarious agents have become aware of the incident or should reasonably have become aware of it. If the amount of the damage cannot be determined within this period, however, it suffices to claim the damage on the basis of the reason. Claims for damages that are not asserted within this period are excluded. The assertion of a claim for damages due to personal injury shall not be asserted hereof.

11.2 The Customer further undertakes to immediately give P<sup>3</sup> the opportunity to make all necessary findings regarding the cause of the damage, the course of the damage and the amount of the damage itself or to have them made by authorised representatives. Damage expenses incurred as a result of the Customer not fulfilling his previous obligations at all or not immediately shall be borne by the Customer.

**Date: Feb. 2020**

11.3 Insofar as P<sup>3</sup>'s liability for damages is excluded or limited, this shall also apply with regard to the personal liability for damages of the employees and vicarious agents of P<sup>3</sup>.

## **12. Third-party claims**

The Customer shall indemnify and hold P<sup>3</sup> harmless from all and against all losses that P<sup>3</sup> may incur as a result of or in connection with the rendering of the services under the contractual agreements or on the basis of which claims against P<sup>3</sup> are made by third parties, unless these losses result from a culpable act or omission on the part of P<sup>3</sup>, including its employees, agents or subcontractors.

## **13. Liability insurance and proof**

13.1 P<sup>3</sup> maintains occupational liability insurance that goes beyond the statutory requirements of the German Ordinance on the Security Trade (BewachV) with the following coverage amounts:

- a) EUR 3,000,000 for personal injury
- b) EUR 3,000,000 for property damage
- c) EUR 3,000,000 for financial losses
- d) EUR 250,000 for financial losses resulting from the violation of data protection laws by misuse of personal data
- e) EUR 250,000 for the loss of guarded property
- f) EUR 250,000 for other damage to activities and data deletion / data reordering costs

The Customer takes note of the abovementioned coverage amounts and finds them sufficient to cover property and contract-typical risks.

13.2 The Customer may require P<sup>3</sup> to provide proof of the conclusion and existence of liability insurance for security companies with the contents stipulated in the Ordinance on the Security Trade from 23/07/2002 in the new version from 10/07/2003 (BGBl I (German Federal Law Gazette) p. 1378).

13.3 Insofar as the Customer deems higher coverage sums than those mentioned in section 13.1 to be necessary, he shall inform P<sup>3</sup> thereof; P<sup>3</sup> shall agree on an increase of the coverage sums will be agreed against an increase of the remuneration.

13.4 The insurance contract is based on the General Liability Insurance Conditions (AHB) and the Liability Insurance Conditions for Security Companies without limitations. Excluded from this insurance coverage are, in particular, damages that are not related to the actual security service, such as, for example, the assumption of the tax obligation in the event of black ice, the operation of sun protection equipment or the operation and maintenance of machines, boilers, heating devices, electrical systems or similar equipment.

## **14. Payment of the fee**

14.1 Unless otherwise agreed, payments shall be transferred immediately and without deductions to the P<sup>3</sup> company account. Any agreed cash payments are to be handed over to the responsible employee or operational manager of P<sup>3</sup> immediately at the end of the order once an invoice has been submitted.

14.2 The Customer shall be in default at the latest if he does not pay within 30 days of the due date and receipt of an invoice or equivalent statement of payment; this circumstance shall apply to a Customer who is a consumer only if these consequences have been specifically delineated in the invoice or statement of payment. If the date of receipt of the invoice or statement of payment is uncertain, the debtor who is not a consumer shall be in default at the latest 30 days after the due date and receipt of the service.

14.3 In the event of a default of payment, P<sup>3</sup> may suspend the performance of the services to be rendered under the contractual agreements. The suspension of the service will be announced by P<sup>3</sup> in writing at least 10 days in advance.

**Date: Feb. 2020**

14.4 In the event of non-payment or unreliable payment, P<sup>3</sup> shall be entitled to link the further performance of the service to the condition that services already rendered (irrespective of whether or not the invoice has been issued) and future services are only provided against advance payment/immediate payment.

14.5 The Customer is only entitled to offset claims in the case of undisputed or legally established claims.

## **15. Price change**

15.1. In case of a change in/new introduction of statutory taxes, levies, insurance premiums, wage costs and ancillary wage costs, in particular, due to the conclusion of new wage, skeleton or other collective wage agreements that lead to an increase in the costs of the agreed service, P<sup>3</sup> is entitled to change the remuneration by the amount by which the hourly rate for the execution of the order has changed due to the change in wage costs, ancillary wage costs and other abovementioned costs, not including the respectively valid statutory taxes and levies. In the case of price increases, it must be stated which cost factors have increased and to what extent and the significance of this increase in costs for the cost calculation. Cost increases for individual cost elements can only be passed on to the extent that they are not offset by price reductions for other cost elements.

15.2 If proof of the cost changes is required by the Customer, a corresponding confirmation from the collective agreement party/employers' association is sufficient for the assertion, unless such a change has already been made known by other means; a certificate from the insurance company is sufficient for the assertion of a change in insurance costs.

15.3 Assertion shall be put into effect by written declaration to the Customer. The adjustment may be demanded with effect from the first day of the month following receipt of the declaration at the earliest.

15.3. In the event of a change in cost factors leading to a reduction in the cost of the agreed service, the Customer shall be entitled to a price reduction in accordance with the provisions of paragraph 1.

## **16. Start of contract, duration of contract, amendments to contract, termination of contract**

16.1 Unless otherwise agreed in writing, the service contract shall initially be fixed for a period of one year (basic contract period). It is then automatically extended for an additional year, unless terminated by one of the Parties with a notice period of three months to the end of the fixed term or of an extension period. The contract shall be binding from the date on which the customer is sent a written confirmation of the order from P<sup>3</sup>.

16.2 The right of termination for good cause remains unaffected. Good cause exists in particular if the assets of the other Party deteriorate significantly, if insolvency proceedings are opened over the assets of the other Party or if the opening of such proceedings is refused due to lack of assets.

16.3 Amendments and supplements to this Agreement must be made in writing. This written form requirement also applies to any amendments to this written form clause itself. The abovementioned written form requirement shall not apply to individual agreements.

16.4 Any termination shall be in writing.

16.5 By signing this Agreement, the Customer assures that he does not pursue any goals with the order that are dangerous to the state, that are unconstitutional or that are in any way illegal with the order. The law of the Federal Republic of Germany applies exclusively to the execution of the order (also abroad) and the resulting claims.

16.6 Ancillary agreements, reservations, supplements and/or amendments to this Agreement require the written confirmation of both Parties to be valid.

## **17. Cancellation, loss of earnings**

17.1 The remuneration shall also be paid by the Customer if an agreed service has not been used in whole or in part for reasons for which the Customer is responsible and if said service has not been cancelled vis-à-vis P<sup>3</sup> within a reasonable period, however, only taking into account what P<sup>3</sup> achieves through a different assignment of the personnel (loss of earnings).

**Date: Feb. 2020**

- 17.2 In the case of a service not used or cancelled by the Customer, the following provisions shall apply:
- More than 14 days before the agreed start of the service, no cancellation fee is due.
  - 7 - 14 days before the agreed start of the service, a cancellation fee of 40% of the agreed fee is due.
  - 1 - 7 day(s) before the agreed start of the service, a cancellation fee of 80% of the agreed fee is due.
  - On the day of the agreed start of the service, a cancellation fee of 100% of the agreed fee is due.
- 17.3 The Customer reserves the right to prove that P<sup>3</sup> did not cause any damage at all or only a damage that is significantly lower than in the abovementioned flat-rate compensation.

## **18. Loyalty clauses**

- 18.1 The Customer undertakes not to recruit any employees whom P<sup>3</sup> employs for the performance of the contractual services at the Customer's company for the establishment of a new service or employment relationship as independent or dependent employees of the Customer. This provision shall apply during the term of the agreement and six months after the end of the agreement.
- 18.2 If the Customer culpably violates the provisions of paragraph 1, he is obliged to pay P<sup>3</sup> a contractual penalty to be determined by the P<sup>3</sup> at his reasonable discretion for each case of the infringement, the appropriateness of which in the event of a dispute must be examined by the competent court.

## **19. Data protection and confidentiality**

- 19.1 Confidential information means all information and documents of the other Party which are marked as confidential or which are to be regarded as confidential from the respective circumstances, in particular information on operational procedures, business relations and know-how, and – for P<sup>3</sup> – all work results.
- 19.2 The Parties agree to maintain confidentiality of such confidential information. This obligation shall continue for a period of twelve months after the end of the agreement.
- 19.3 Such confidential information is excluded from this obligation
- a) which was already provably known to the recipient at the time of conclusion of this Agreement or which subsequently becomes known through third parties without any breach of a confidentiality agreement, legal regulations or official orders;
  - b) which are publicly known at the time of the conclusion of this Agreement or are subsequently made public, unless this publication is due to a breach of this contract;
  - c) which must be disclosed under legal obligations or by the order of a court or authority. To the extent permitted and possible, the recipient obliged to disclose shall notify the other Party in advance and give it the opportunity to take action against the disclosure.
- 19.4 The Parties shall grant access to confidential information only to such advisers who are subject to professional secrecy or who have previously been required to comply with the confidentiality obligations of this Agreement. Furthermore, the Parties will only disclose to those employees the confidential information they need to know for the performance of this Agreement and will require such employees to maintain confidentiality to the extent permitted by labour law after they leave the company.
- 19.5 Any culpable breach of the abovementioned confidentiality obligations shall, in each case of infringement, be subject to a contractual penalty to be determined by P<sup>3</sup> at its reasonable discretion, the appropriateness of which shall be reviewed by the competent court in the event of a dispute. Further claims of the Parties remain unaffected.
- 19.6 The Parties shall observe the relevant data protection regulations, in particular those of the German Federal Data Protection Act (BDSG) and the European General Data Protection Regulation (EU-GDPR).

**Date: Feb. 2020**

**20. Place of jurisdiction and performance**

If the Customer is a merchant or a legal entity under public law or if the Customer is a special fund under public law, the place of performance and jurisdiction shall be the headquarters of the management of P<sup>3</sup>. This jurisdictional agreement shall also apply expressly in the event that

- a) the Party to be sued has relocated its headquarters, place of residence and/or habitual abode after the conclusion of this Agreement;
- b) claims arising from the contractual relationship are asserted by way of a reminder procedure.

**21. Final provision**

- 21.1 Amendments and supplements to this Agreement must be made in writing. This written form requirement also applies to any amendments to this written form clause itself. The abovementioned written form requirement shall not apply to individual agreements.
- 21.2 Upon the signing of this Agreement, any prior agreements and commitments between the Parties regarding employment, hiring and service contracts and promises shall terminate.
- 21.3 The Parties mutually agree to notify each other immediately of any changes affecting this contractual relationship (in particular changes in the company form, change of business address, etc.).
- 21.4 The services provided by P<sup>3</sup> shall be performed exclusively on the basis of the general agreement, the individual orders (service lists) and the General Terms and Conditions of P<sup>3</sup>. These shall also apply to all future transactions insofar as they are of the same kind. The terms and conditions of the Customer shall not apply, even if P<sup>3</sup> does not separately contradict their validity. Any deviating or conflicting conditions shall therefore only apply if they have been recognised in writing by P<sup>3</sup>.
- 21.5 This contract shall be governed exclusively by German law, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods from 11/04/1980 (UN Sales Convention).
- 21.6 Should individual provisions of this contract be invalid or unenforceable or become invalid or unenforceable after conclusion of this Agreement, the validity of the remaining provisions of the agreement shall remain unaffected. The invalid or unenforceable provision shall be replaced by the valid and enforceable provision whose effects come closest to the economic objective pursued by the Parties with the invalid or unenforceable provision. The abovementioned provisions shall apply accordingly in the event that the agreement proves to be incomplete.

**Right of withdrawal for consumers**

If the Customer is a consumer (i.e., a natural person who places the order for a purpose that cannot be attributed to his commercial or independent professional activity), he has a right of withdrawal according to the legal regulations.

In all other respects, the regulations set down in detail in the following documents apply to the right of withdrawal.

**Withdrawal policy**

**Right of withdrawal**

You have the right to withdraw from this contract within 14 days without giving any reasons.

The withdrawal period is 14 days from the date of conclusion of this Agreement.

Date: Feb. 2020

In order to exercise your right of withdrawal, you must contact us (P<sup>3</sup> Security GmbH, Frühlingstr. 22, 85221 Dachau, Germany, phone: +49 8131 33344-27, fax: +49 8131 2736-046, e-mail: info@p-3-security.com) with a clear declaration (e.g., a letter sent by post, a fax or an e-mail) of your decision to withdraw from this contract. You can use the attached example of a withdrawal form, the use of which is not mandatory.

To observe the withdrawal period, it suffices to send the notice of the exercise of the right of withdrawal before the expiry of the withdrawal period.

Consequences of the withdrawal:

If you withdraw from this contract, we shall immediately repay all payments we have received from you, including delivery costs within 14 days of the date on which we received notification of your withdrawal of this contract at the latest. We will use the same method of payment you used in the original transaction, unless otherwise agreed with you; under no circumstances will you be charged for such repayment.

End of the withdrawal policy