

## GENERAL TERMS & CONDITIONS OF BUSINESS

### 1. Scope of application

These General Terms & Conditions of Business, hereinafter known as GTCs, apply to all contracts and services agreed by Monitron that refer to the GTCs or were concluded through conclusive actions. General Terms & Conditions of Business and/or General Conditions of Purchase of the client are hereby expressly excluded, unless they are acknowledged by Monitron in writing.

### 2. Conclusion of contract

The contract between Monitron and the client is considered to be binding, if Monitron has confirmed the project in writing or accepted it through conclusive actions (e.g. direct provision of services).

### 3. Applicable law and order of precedence

The following apply to the legal relationship between the parties in order of precedence:

1. The concluded written contract
2. The offer from Monitron
3. These GTCs from Monitron
4. The tender from the client
5. The SIA standards and regulations
6. Swiss law

### 4. Due diligence

Monitron shall protect the interests of the client, especially the achievement of its objectives, to the best of its knowledge and ability, and shall fulfil the contractually agreed services taking into account the generally recognised regulations of the respective specialist area. Monitron uses a quality management system according to ISO 9001 und 14001.

### 5. Confidentiality

Knowledge obtained in the course of processing the order shall be treated confidentially by Monitron and shall not be used to the disadvantage of the client. Monitron may use the name and address of the client and service description for marketing purposes without mutual written agreement.

### 6. Disclosures

Monitron shall be entitled to specify the client as a reference and also to disclose its work and/or services whilst protecting the interests of the client. It shall also have the right to be specified as originator in relevant disclosures on the part of the client or a third party.

### 7. Copyright and intellectual property

Copyright, especially any kind of documentation or data from work and/or services in analogue or digital form such as, for example, drafts and parts of works, studies, plans, reports, brochures, photographs, software etc. shall remain the intellectual property of Monitron.

### 8. Use of work results, retention of documents

On payment of the fee, the contractor has the right to use the work results from Monitron for the agreed purpose. Monitron shall retain the original copies of the documents or retain them in another suitable form for ten years from termination of the assignment. These documents shall remain the property of Monitron.

### 9. Avoidance of damage and danger

To avert damage and danger, in the event of an emergency, Monitron shall be authorised to take or order any appropriate measures even without obtaining consent from the client. It shall inform the client immediately. The client shall promptly take all reasonable measures that are appropriate to prevent the initiation or increase of damage.

### 10. Involvement of third parties to fulfil a contract

Monitron shall be entitled to involve third parties at its own expense in order to fulfil its contractual obligations and to ensure documentation is shared with these parties and to disseminate information. Monitron shall obligate these third parties to treat all knowledge confidentially.

### 11. Prices

Without mutual agreement, prices shall be understood to be in CHF, from Monitron's works (EXW), INCOTERMS 2020, without tax and duties, without packaging, freight and insurance costs, without custom duties, without fees and other duties which are all to be assumed by the client.

### 12. Fees and payment arrangements

Monitron is entitled to payments on account within the scope of contractually fulfilled services. Unless otherwise agreed, invoices shall be settled within 30 days of the invoice date. After expiry of the payment deadline, there will be a charge of 5% interest on arrears. Monitron may request a guarantee of the fee or an advance payment.

### 13. Additional services

All services which are not quoted in writing shall be considered as additional services. These must be mutually agreed. Unless otherwise stipulated, these additional services shall be calculated by Monitron at the relevant hourly rate at the time of fulfilment of the service.

### 14. Field operations

For field operations, access to the premises must be kept free for the required personnel and equipment. The contractor shall inform Monitron in advance of works underground or construction that may have an impact on the safety of personnel and goods and on the success of services.

### 15. Special provisions for trajectory surveys and in-situ testing services

#### 15.1 Field works

These include all services fulfilled by Monitron with regard to drilling that are implemented on building sites, drilling sites or other specified places of fulfilment.

#### 15.2 Agreement of schedules for field works

The scheduled implementation of field works, in addition to a schedule with a period of notice of at least 30 days for operations and freights that are accessible with our test vehicles (3.5t), requires the following confirmation of the schedule by the client:

- Switzerland: at least 3 working days
- Europe: at least 5 working days
- All other countries: at least 20 working days

For all other operations, the conditions of the respective tender shall apply. In the event of postponements or delayed confirmation of schedules, Monitron shall reserve the right to extend the deadline. Additional expenses and costs for postponement of schedules or acceleration of works shall be invoiced to the client as an additional service.

#### 15.3 Downtime and waiting time

Downtime and waiting time that was not the fault of Monitron shall be invoiced as additional services. Additional costs incurred such as transport, travel, accommodation, expenses etc. shall be the responsibility of the client.

#### 15.4 Accessibility of place of performance

Unless otherwise agreed, transport of materials and personnel by Monitron is included in the contract up to the end of the public road. Further transportation of any kind to the place of performance of field works shall be provided by the client at no cost to Monitron.

#### 15.5 On-site infrastructure and assistance

Unless otherwise agreed, services by Monitron exclusive of costs for service provision, necessary on-site infrastructure and assistance, for example, but not exclusively, for drilling equipment, service and support personnel, lifting equipment, electricity and water supply, ventilation, lighting etc. are to be provided by the contractor for Monitron at the place of performance.

#### 15.6 Disclaimer and exclusion of liability in the event of special conditions in borehole

The customer shall undertake to notify Monitron before service fulfilment, without being requested to do so, of all details of conditions in the borehole, especially borehole instability, gas deposits, results of the calliper log, changes to the borehole course, borehole breakouts, the nature of the drilling fluid, etc. Monitron shall reserve the right to refuse service provision if no meaningful measurement results are likely and/or if the risk for the measuring instruments used is estimated to be too great. If the client insists on implementation of the field works despite reservations on the part of Monitron, the client alone shall bear all risks, consequences of liability and costs, especially but not exclusively, for the borehole, damage to and loss of the measuring equipment or the quality of the measurement results collected.

#### 16. Postponement of operations and interruption to works

In the event of postponement of the schedule of an agreed operation, interruption to works, delay and/or obstruction to services to be implemented by Monitron for which Monitron is not responsible, or if, as a result, additional works are required by Monitron, Monitron shall be entitled to invoice reimbursement of all costs and expenses incurred in conjunction with this and also any damage incurred by Monitron.

#### 17. Legal framework conditions and safety in the place of performance of the service

The client shall undertake to inform Monitron of all details of the local, statutory, official and other regulations, framework conditions and requirements, for example, but not exclusively, the labour regulations and occupational safety regulations and also to guarantee measures for prevention of illness and accidents in the place of service performance that are relevant within the context of fulfilment of the contract. The required safety services or official permit for fulfilment of services by Monitron are to be provided for Monitron by the client without cost. In the event of defective or missing safety measures, Monitron can suspend field works at its own discretion with a cost implication for the client until safety can be guaranteed.

#### 18. Extensions to deadlines and postponement of schedule

If one party does not provide an agreed service according to the schedule, it may give notice of default by the other party with a written warning. For the party issuing the warning, the deadlines and schedules which they have undertaken to comply with shall be postponed correspondingly. Monitron shall not be liable for damage caused by delay through no fault of its own.

#### 19. Enticement of employees

The client shall undertake not to entice employees of Monitron during implementation of the mandate and for a year after its termination and not to make any offers of employment to them.

#### 20. Use of employees

Monitron shall use only carefully selected and well-trained employees with the required specialist knowledge for fulfilment of services. Monitron shall reserve the right to exchange employees used or contractually agreed at any time.

#### 21. Rent

The client shall pay the agreed rent according to the contract for the duration of the rental. The duration of rental and also the transfer of risk by Monitron to the client, especially for damage to transport, theft and destruction of products shall be from the time of delivery from the works of (EXW) Monitron INCOTERMS 2020 or receipt of the DDP return delivery to the designated

domicile of Monitron, INCOTERMS 2020. Unless otherwise agreed, it is the sole task of the client to ensure sufficient insurance cover for the products at the value specified by Monitron. Monitron is entitled to request to be shown the insurance documents by the client. The products shall remain the property of Monitron at all times. The client shall treat the products with at least as much care and attention as their own. If the product becomes unfit for use during the duration of the rental, Monitron shall provide adequate replacement or repair without cost at its own discretion, provided that the product was handled appropriately and also that the operational and maintenance instructions were strictly followed. Monitron is entitled to terminate rental of the products at any time for good cause, such as, e.g., infringement of the contract, delayed payment of rent, lack of care and attention when handling the product, and also for no or inadequate insurance cover for the products and is entitled to compensation for the damage incurred and for costs.

## **22. Special provisions for Monitron-Information-Technology-Services**

### **22.1 Object and scope**

The object of these special provisions for Monitron-Information-Technology-Services, hereinafter designated as MITS, is the use of MITS services, for example, but not exclusively, the online data portal infrastructure, software as a service and cloud services. MONITRON shall provide the client with any other data communication and/or data carrier according to the agreed contractual conditions for the contractually agreed services, the agreed purpose of use, and the duration of MITS in the respective current version via the internet.

### **22.2 Guarantee for MITS services by Monitron**

MITS shall be activated for use by the client in an appropriate way (e.g. With a connection and also client-specific log-in data). Monitron shall be responsible for the provision of the agreed contractual services. These services include the reliable and secure operation of the technical infrastructure, installation and maintenance of software, data retention and data management, operation of the data portal, maintenance of a backup system and also for measures required for the maintenance of operational efficiency. MONITRON shall provide the client with the MITS ordered for the intended use and shall grant it non-exclusive and non-transferable right of use for the duration of the contract. If MITS includes products and/or services of third-party providers, both MITS and the guarantee by Monitron shall limit themselves to the conditions into which Monitron has entered with these third-party providers. Monitron shall expressly not guarantee software and/or services from third-party providers, for example but not exclusively, for any malfunctions, defects, interruptions to the MITS connection, loss of data etc., that are the result of products and/or services of third-party providers. The conditions of third-party providers shall be issued to the client on request.

### **22.3 Responsibilities of the client**

The client shall remain entirely responsible, regardless of MITS, for the operation, access restrictions, security and the condition of its own IT infrastructure and all other electronic/digital media, for example but not exclusively, for hardware, software, operation, safety, data security etc. used by MITS. Monitron shall reject any responsibility for defective data from the client captured, transferred, processed or stored with a product or service of its choice. The client shall bear all liability risks and costs incurred in conjunction with the exercise of its responsibilities.

### **22.4 System availability**

MITS shall be provided according to the principles of "best efforts". Monitron shall take reasonable measures to guarantee, as far as possible, use of MITS without interruption. However, the client shall be aware that MITS and also its additional services from third-party providers is a technically complex system where functionality cannot be influenced by Monitron, and thus Monitron cannot undertake any guarantee for the constant and defect-free availability of MITS. Interruptions due to system maintenance, updates etc. shall be notified in advance and for planned works a period of 5 working days shall be adhered to. Directly necessary works causing a disruption to availability may be undertaken at any time for rapid problem-solving or the avoidance of potential risk without advance notification on the part of Monitron.

### **22.5 System and data security**

If Monitron becomes aware of a risk to correct operation due to negligent or malicious activities from external origins (including cyber or DDoS attacks, virus attacks), Monitron shall be entitled to immediately take all necessary steps to preserve its own MITS infrastructure and data files from damage without prior notification or time restrictions.

### **22.6 Support**

Monitron support is available for the client from Monday to Friday from 9 a.m. to 5 p.m. (CET) and by email at [support@Monitron.ch](mailto:support@Monitron.ch). For support outside these times or additional client-specific services, individual service level agreements may be agreed.

### **22.7 Protected rights**

The client shall recognise the protected rights, especially the agreed MITS rights of use by Monitron. The client is not entitled to make the MITS available to third parties for examination or use with or without remuneration or to lease it and/or to use it beyond the framework of the contractual relationship with Monitron or to dispute it in any form.

### **22.8 Confidentiality**

The contracting parties shall jointly undertake to maintain the confidentiality of all confidential information of the other party. Monitron shall be entitled to involve third-party providers or other subcontractors, but these parties must be bound to confidentiality. Monitron shall undertake to treat confidentially all data transmitted to third parties and to comply with the respectively valid data protection regulatory provisions. Thus, service providers designated by the client shall not be considered as third parties.

### **22.9 Data protection and data security**

Monitron shall treat the data of the client with the utmost care and protect it from misuse and loss. Thus, Monitron shall take technical and organisational measures that correspond at least to the valid requirements of Swiss data protection legislation. Data from MITS shall be stored in Switzerland. Special agreements for server locations can be made within the scope of what is technically possible. The client shall be responsible for the legality of data transfer or its use. All data from the client stored and processed by Monitron is the exclusive property of the client and shall be used by Monitron exclusively for the purposes of the fulfilment of the contract. Use of MITS-based services means that Monitron has access to all data from the client that is necessary for the smooth functioning of MITS. The client shall be aware of and consent to Monitron processing this data for the purposes of service improvement of the MITS, and, in so far as is legally permitted, to the anonymised evaluation of the data stored by Monitron for the client, for statistical purposes and also for utilisation of the evaluations by Monitron.

## **22.10 Duration and termination of contract for MITS services**

The contractual period for MITS services can be concluded for an indefinite period or for a limited duration and shall become effective on the date agreed in the contract. A contract of indefinite duration can be terminated in writing by complying with a period of notice of 3 months.

## **22.11 Liability for MITS services**

As the provision of MITS services generally occurs with the involvement of various providers, it is expressly agreed that Monitron can only be liable for services within the scope of influence of Monitron, especially within the part of the MITS infrastructure operated and controlled by Monitron. Thus, in the event of upstream or downstream services or causes, Monitron shall not have any liability, even if these causes can be realised within a service provided that does not conform to the contract. In particular, Monitron shall not be liable for damage where the cause lies outside Monitron's scope of influence. Moreover, liability, as far as legally permissible, will be limited to cases of gross negligence and wilful intent. In particular, Monitron shall exclude any liability for indirect and consequential damage.

## **23. Public liability insurance**

Monitron has public liability insurance that covers liability claims for individuals and property damage, damage and defects from products and services and also financial losses up to a maximum sum per event.

## **24. Liability**

### **24.1 General**

If the fulfilment of the aims of the client depends on circumstances that are outside the scope of influence of Monitron, liability by Monitron is excluded. This shall also apply especially to unforeseeable decisions by third parties, for example, regarding the granting of permits or credit. Monitron shall not be liable for the services of relevant independent third parties that are in a direct contractual relationship with the client. Monitron shall not be liable for the activities of third parties engaged by Monitron, provided that their involvement with the client was contractually agreed and the selection and instruction of the third party occurred with the required diligence. Monitron shall assume that

- accurate and complete information and documents are provided on the part of the client or third persons specified by it to process the order
- extracts from the work results are not utilised
- the work results are not used without review for a purpose not agreed or for another object or transferred to changed circumstances.

Otherwise Monitron rejects any liability in respect of the client for damage expressly incurred. If a third party makes use of the work results or makes decisions based on these, any liability by Monitron for direct and indirect damage is excluded, that arises from use of the work results.

### **24.2 Limitation of liability**

In the event of liability by Monitron in respect of the client, liability shall be limited to the amount that was paid for the activity relating to the loss event, however to a maximum of the insured sum. Under no circumstances shall Monitron be liable for indirect damage (consequential damage) and pure financial loss. Moreover, special liability conditions shall apply for services pursuant to Art. 15. et seq. and also Art. 22. et seq. AGB

### **24.3 Force majeure**

No party shall be liable for non-fulfilment or delayed fulfilment of obligations, if they are a result of force majeure, including strikes. In such an event, the party concerned will inform the other party immediately of the occurrence of force majeure.

## **25. Place of performance**

Unless otherwise agreed, place of performance shall be considered to be the designated branch of Monitron.

## **26. Termination**

### **26.1 Principle**

In the event of gross violation on the part of one of the two parties of an essential contractual obligation, and in the event of the fault not being rectified within a period of thirty (30) days, counting from receipt of the signed advice of delivery of the registered letter in which the fault was described, the other party can request cancellation of the contract in the absence of an amicable settlement.

### **26.2 Immediate cancellation of the contract**

- The contract can be cancelled immediately for good cause if the client
- becomes insolvent or if a bankruptcy petition is rejected due to lack of assets
  - is in arrears with payment obligations from this contractual relationship and was warned, without success, with the setting of a grace period and under threat of cancellation of the contract
  - is in breach of statutory regulations by using contractual services culpably or encroaches on copyrights, commercial property rights or name rights.

### **27. Non-assignment of claims**

The assignment of claims against Monitron by the client to third parties is excluded without written consent from Monitron.

### **28. Severability clause**

If a clause of these GTCs is declared to be illegal, invalid or unable to be implemented by a responsible court, such a clause shall, where possible, and within the context of what is legally permissible be replaced with a legal, valid and implementable clause; if it is not possible to repeal it without replacement, while the remaining part of the GTCs shall remain valid. In the event of a replacement of an illegal or invalid clause or clause that cannot be implemented by a new clause, this new clause should, as far as possible, reflect the original interests of the parties.

### **29. Jurisdiction**

The usual courts in the location of the relevant branch of Monitron or in Bern shall be responsible for the assessment of disputes between contracting parties.