

## § 1 Scope of application

The following Terms and Conditions apply to all deliveries and services including future sales and form part of the Contractual Agreement. Contrary General Terms and Conditions of the customer shall not become part of the Contractual Agreement even where no express objection is made and even in circumstances where a service is provided. Any divergence from the present General Terms and Conditions and any other side agreements shall not be valid unless expressly agreed in writing by us. Said requirement for agreement shall apply in every case and shall in particular apply in circumstances where we act unconditionally in executing a delivery or service to a customer in full knowledge of the General Terms and Conditions of such a customer. Only Managing Directors and Authorised Signatories of our company who are entered in the Trade Registry are entitled to agree Terms and Conditions of Delivery and Service which are divergent from the present General Terms and Conditions. The present General Terms and Conditions shall apply until such time as new General Terms and Conditions are published.

## § 2 Offer

Offers made by our company are without engagement and non-binding at all times and subject to delivery to ourselves. This shall also apply in circumstances where prior to the conclusion of the contract we have provided the customer with catalogues, product descriptions or technical documentation (such as user manuals, computations, calculations) in which we reserve rights of ownership and copyright. Design or technical aspects of products may deviate from descriptions or figures shown. The customer may not derive any rights against us from such deviations. Verbal commitments made by employees and representatives shall only be binding for us if expressly confirmed in writing. Insofar as an order may be viewed as an offer pursuant to § 145 German Civil Code (BGB), we may accept such an order within four weeks. Acceptance may be declared either in writing or via the delivery of products or provision of other services to the customer. Notwithstanding confirmation of an order, we shall be entitled to refuse a customer or not execute an order in the event that justified doubts exist as to the correctness of information provided by such a customer or in the event that other reasons, such as impending insolvency or lack of creditworthiness, militate against the execution of the order.

## § 3 Delivery, dispatch, transfer of risk

Delivery deadlines shall only be deemed to have been agreed to be binding if we make an express commitment in writing that such deadlines are binding. Insofar as binding delivery deadlines have been agreed, we shall not be in default without a written reminder from the customer. All delivery deadlines shall be subject to correct and timely delivery to ourselves. Partial deliveries are permitted. Compliance with deadlines for deliveries and services requires all documentation to be supplied by the customer, all approvals and authorisations required, in particular for plans, to be made available in a timely manner and further requires customers to perform all acts of co-involvement incumbent on them and for the agreed payment terms to be observed. Deadlines will be extended accordingly in the event that the above requirements are not met. This shall not apply if we ourselves are responsible for the delay.

Deadlines will be extended accordingly in the event that non-compliance with delivery deadlines is due to Acts of God such as war, riots or similar occurrences, strikes, lock-outs, non-timely delivery to ourselves by a supplier or similar. In the event that we are in default of delivery, customers may require compensation in the amount of 0.5 percent of the price for the part of the delivery which could not be put into proper operation owing to the delay for each complete week of default. Notwithstanding this, the total amount of compensation payable shall not exceed 5 percent of the price.

Compensation claims asserted by the customer because of delay to delivery and services not rendered which extend beyond the aforementioned limit shall be excluded in all cases of delayed delivery including following the expiry of any delivery deadline which we may have been set. The above shall not apply in circumstances where we are compulsorily liable due to intent, gross negligence or damage to life, limb or health. The present provision does not imply a change in the burden of proof to the detriment of the customer. Within the scope of statutory provisions, the customer may only withdraw from the contract insofar as we are responsible for the delay in delivery.

On request, customers shall be required to declare within a reasonable deadline whether they intend to withdraw from the contract due to delay in delivery or whether they insist on delivery.

Insofar as delivery is impossible, customers shall be entitled to require compensation unless the reason why delivery is impossible is not our responsibility. Notwithstanding this, such a compensation claim of the customer shall be limited to a maximum of 25 percent of the net order value of the part of the delivery which cannot be used in a timely manner or in accordance with the contract due to impossibility of delivery. This is without prejudice to the right of the customer to withdraw from the contract. Our liability in the case of negligent breach of a material contractual duty shall be restricted to foreseeable damages typical to the sort of contract.

Delivery of products takes place directly to the customer. Risk shall be transferred to the customer when the object of delivery has left our works. The same shall apply in circumstances where partial deliveries take place or where we provide further services. Products will be delivered to a different destination at the request of the customer. Insofar as it has not been agreed that products will be collected by customers themselves or by third parties and the customer has not provided any particular instruction, we shall be entitled to determine the type of dispatch (in particular forwarding company, dispatch route, packaging) ourselves.

Risk of accidental destruction of and of accidental impairment to the goods shall pass to the customer when goods are transferred. Transfer shall have been deemed to have taken place if the customer is in default of acceptance. When goods are dispatched, risk of accidental destruction of and/or of accidental impairment shall be transferred once goods are handed over to the forwarding agent, carrier or other person or institute determined for the execution of dispatch.

## § 4 Remuneration, payment conditions

Insofar as fixed prices have not expressly been agreed, the amount of the price for the respective delivery or service shall be the company price list valid at the respective time of confirmation of order. Prices are stated net ex warehouse not including deductions and statutory Value Added Tax. Costs of delivery, packaging and any express surcharges are charged separately.

The price for the installation of accessories is charged separately insofar as nothing to the contrary has been agreed. In such a case, the general list prices and transfer pricing rates at the planned time of installation shall apply.

Cost estimates for repairs are prepared to the best of our knowledge and do not constitute a fixed price agreement. There is no requirement for an object inspected within the scope of a cost estimate to be returned to its original condition if this is not technically and economically feasible.

In the event that a repair order is placed which does not include a clear indication of fault and cost limitation, we may complete any repairs which we deem to be necessary whilst according due consideration to the market value, operational safety and functionality of the object of repair. In the event that a customer has provided an indication of the fault and further defects are ascertained during the repair, we may remedy such further defects without a specific order if this is necessary for the maintenance of operational safety and if the expense of so doing is proportionate to the costs of the original order.

Customers will be invoiced for costs incurred if the fault forming the object of complaint is not ascertained during inspection, if a replacement part required can no longer be procured or if the order is withdrawn whilst in the process of being executed. The same shall apply if the customer fails to attend an appointment for repair works.

We expressly reserve the right to refuse cheques or bills of exchange. Such means of payment will only be accepted subject to clearance. Discounting and exchange costs are charged to the customer and shall fall due immediately.

Invoices shall fall due for payment without deduction within 14 days of dispatch of invoice from our company insofar as nothing to the contrary has been agreed in the order confirmation and/or on the invoice. Upon expiry of said deadline, the customer shall be in default without any

requirement for a separate warning. In the event that a customer is in default of payment, penalty interest will be charged at an annual rate of 5 percentage points above the respective base rate for private consumers and 8 percentage points above the respective base rate for commercial enterprises pursuant to § 247 German Civil Code (BGB). We reserve the right to demonstrate that interest costs incurred are higher.

Amendments to the prices stated in the contract are permissible if at least 4 months elapse between conclusion of the contract and agreed delivery date and if there have been changes to the standard wages as governed by the collective wage agreement which applies in our case or changes to the services to be provided. In such a case, we may adjust the price in accordance with the change. The same shall apply shall apply mutatis mutandis to an amendment to statutory Value Added Tax and in the event that there is a delay in delivery or service due to the fact that customers fail to fulfil their duty with regard to arranging for timely acceptance or installation in respect of said delivery and service. The customer shall be furnished with evidence of reductions or increases in cost on request.

The customer shall only have the right to set off claims in circumstances where counterclaims are established in law or have been recognised by us in writing. In addition, customers may only exercise a right of retention if the claim on which the retention of a payment rests is based on the same contractual relationship and has either been established in law or has been recognised by us.

In the event that the customer is in material default of payment, we shall have the right to cease temporarily or to retain further services to which we have committed under the same contractual relationship and to make all outstanding amounts arising from said same contractual relationship due for immediate payment.

In such a case, any dates or deadlines which may have been agreed for the execution of further deliveries and services shall for our part be deemed to have lapsed without any requirement for particular notification of this circumstance.

## § 5 Retention of title and rights

We reserve ownership of objects delivered and right of exploitation in respect of software included until such time as all claims arisen or arising from the business relationship have been paid in full. The same shall apply in circumstances where individual or all claims have been included by us in a current invoice and the balance of such an invoice has been determined and recognised. The customer is required to keep the goods subject to reservation of title with due diligence on our behalf and to insure them sufficiently, at his own expense, against fire, water, theft or other risks of damage.

The customer shall assign to us relevant claims arising from such insurance contracts at the time when said contracts are concluded. We accept such an assignment.

The customer shall be entitled to resell goods subject to retention of title in the normal course of business. Notwithstanding this, the customer shall assign to us with present effect any claims resulting from such a resale or from relicensing of the software. We accept such an assignment. The customer shall have a revocable right to collect such a claim. The customer shall at our request disclose claims ceded and the relevant debtors. We shall be entitled to disclose the assignment to a debtor of the customer.

Notwithstanding this, we commit not to collect the claim as long as the customer meets payment obligations, as long as the customer does not enter into default of payment and in particular as long as no insolvency proceedings have been instigated against the customer's assets and as long as the customer has not ceased payments. In the event of conduct in a manner contrary to the contract by the customer or in the event of expected cessation of payment, we shall be entitled to take back goods subject to retention of title at the expense of the customer or to require the assignment of any claims the customer may have against third parties with regard to the right to recover possession. Said rights shall also apply in circumstances where secured claims have lapsed. We shall be entitled to dispose of the goods subject to retention of title if necessary and set off any outstanding claims against the proceeds of such a sale.

In the case of simple repossession in accordance with the provision set out above, we shall be entitled to collect any goods subject to retention of title which are still in the customer's possession at the customer's expense. The customer shall grant employees from our company who have been authorised to collect goods subject to retention of title access to the customer's premises during normal office hours and without any requirement for pre-notification.

The exercising of rights arising from retention of title or repossession of goods shall not constitute withdrawal from the contract. Any manufacturing or processing of goods subject to retention of title is undertaken by the customer on our behalf and shall involve no commitment on our part. In the case of processing, combining, mixing or comingling of goods subject to retention of title with other goods which do not belong to us, we shall acquire a co-ownership right in a new product thus created in the ratio of the value of the goods subject to reserved ownership compared with the other materials processed at the time when such processing, combining, mixing or comingling took place. In the event that the customer acquires sole ownership of the product created, both we and the customer shall agree that the customer accords us a co-ownership right in the new product in the ratio of the processed, combined, mixed or comingled goods subject to retention of title and shall keep such co-ownership in safe custody on our behalf.

In the event that liability for a bill of exchange is established on our part in connection with the payment of the purchase price, co-ownership and the claim underlying such co-ownership shall not lapse until such time as the bill of exchange is redeemed by the customer as drawee.

We shall commit to release existing collateral at the request of the customer to the extent that the realisable value of such collateral exceeds the claim secured by more than 20 percent. We shall be entitled to select collateral to be released.

## § 6 Liability for material and legal defects

The customer shall be required to act without delay in inspecting deliveries and services for completeness and obvious defects, in particular for obvious incorrect quantities and damage, and to notify us of such circumstances immediately in writing and within one week of receipt of the delivery or service. In the case of non-obvious (hidden) defects, the customer is required to make a complaint to us in writing without delay upon the defect's discovery and by the end of the limitation period at the latest. Timely dispatch of notice of complaint shall be deemed sufficient for compliance with the deadline. In the event that the customer fails to submit complaints as stipulated above, liability shall be excluded in respect of a defect which has not formed an object of complaint. Burden of proof in respect of compliance with the duty to make complaint, the timely compliance with said duty, the existence of defects and the time at which a defect is ascertained rests with the customer.

All customer claims – whatever the legal basis of such claims – shall lapse 12 months after the commencement of the statutory guarantee period. Said deadline shall not apply insofar as the law prescribes longer periods pursuant to German Civil Code (BGB) § 438 Paragraph 1 Clause 2 (buildings and elements of buildings), § 479 Paragraph 1 (recourse claims) and § 634 a Paragraph 1 Clause 2 (construction defects).

We shall be entitled to choose whether to remedy defects or else supply goods not containing defects. We shall further be entitled to carry out such amendments to the product as are necessitated by defects without additional costs for the customer insofar as the service forming the object of the contract is not subjected to anything more than non-material change. In the event of a failure to render the supplementary performance, the customer reserves the right to reduce the price or, if he chooses, to withdraw from the agreement.

The customer shall support us in the remedying of defects and shall in particular provide us with all information and documentation necessary for remedying the defect. In the event of a justified complaint regarding a defect which is our fault, we shall be entitled to choose a replacement delivery or subsequent performance within an appropriate deadline, usually three weeks. If replacement delivery or subsequent performance fails, the customer may choose reduction of remuneration or rescission of the contract.

In all cases of justified complaints regarding defects, we shall have the right to make several attempts to provide subsequent performance before the customer is permitted to require reduction of remuneration or rescission of the contract. Warranty claims in particular do not apply if a defect is caused by unsuitable or improper use, incorrect installation or commissioning on the part of the customer, usual wear and tear, incorrect or negligent treatment, care, maintenance or operation, the use of inappropriate materials or inappropriate accessories, alterations or repair works undertaken by the customer or a third party, damage caused by overload, defective construction works, inappropriate foundations, damage caused by an Act of God (such as a lightning strike) or chemical, electro-chemical or electrical influences insofar as such defects are not attributable to the supplier.

Claims for defects shall not arise in the event of immaterial deviation from the agreed nature of the goods, immaterial impairment of usability, natural wear and tear or defects arising as a result of improper or negligent treatment after transfer of risk, excessive use, the use of inappropriate materials or defects arising as the result of particular external influences not forming an object of provision pursuant to the contract.

Should it emerge that services requested by the customer and provided by us were not necessary as a result of breach of contractual duty by our company, the customer shall remunerate us for such services and shall bear any costs incurred. Such a charge shall be based on our hourly rates and travel expense rates as amended.

Claims of the customer in respect of necessary expenses for the purpose of subsequent performance, in particular transport, forwarding, work and material costs, shall be excluded insofar as such expenses increase because the goods forming the object of delivery are dispatched to a destination other than the delivery address agreed at the time of conclusion of contract.

In addition, we refer to the usual maintenance intervals that are required for the delivered goods. Defects and/or damage resulting from failure to carry out the necessary maintenance work do not constitute material or legal defects. Warranty and/or compensation claims are excluded.

## § 7 Liability

We shall be liable to an unlimited extent in the event of intent and gross negligence on the part of our legal representatives and vicarious agents as well as for damages to life, limb and health caused by a breach of contractual duty which is the fault of us or of our legal representatives or vicarious agents.

The same shall apply in respect of application of the provisions of the German Product Liability Act. Notwithstanding this, our liability shall be limited to compensation for foreseeable and typically occurring damages. Our liability shall also be limited to compensation for foreseeable and typically occurring damages in cases of gross negligence provided one of the exceptional cases stated above does not apply. The provisions stated do not imply a change in the burden of proof to the detriment of the customer. In the event of a breach of obligation not caused by a defect and if further statutory prerequisites apply, the customer may only withdraw from the contract if the breach of obligation is our responsibility. Withdrawal from the contract is excluded if such a breach of obligation is not material. In the case of other culpable breaches of material contractual duties our liability shall be limited to the sum covered under our company liability insurance.

We shall not be liable for damages insofar as the customer might reasonably have been expected to undertake measures to prevent such damages.

The above liability provisions also apply to our employees and other vicarious agents.

## § 8 Compensation in the case of refusal of acceptance

In the event that the customer is in default of collection/acceptance of a service ordered and if we have set the customer an appropriate deadline in writing for the collection/acceptance of our service, we may, once such a deadline has expired, require compensation for non-fulfilment rather than fulfilment of the contract. In such a case, we may require a flat-rate

payment of 20 percent of the agreed price as compensation without provision of evidence insofar as it cannot be demonstrated that the damages incurred are materially lower. This shall be without prejudice to the right to assert a claim for highly damages which have actually occurred.

The present provisions regarding flat-rate calculation of damages shall also apply if an insolvency administrator avails himself of the right not to fulfil the contract in the event of insolvency of the customer.

## § 9 Breach of copyright and of industrial property rights of third parties

In the event that the object of delivery breaches the industrial property rights of third parties and copyright in particular or in the event that third parties are entitled to require the customer to desist from further use of the object of delivery, we shall commit to taking back the delivery and to providing appropriate subsequent performance. The right of the customer to assert further claims for non-fulfilment are excluded.

Insofar as software is included within the scope of delivery, the customer shall be accorded a non-exclusive right to use the software thus supplied for the agreed purpose as well as being accorded the agreed scope of services in respect of the object of delivery determined for the purpose. All other rights in the software shall remain with us. The customer shall not in particular receive the right to reproduce or alter the software or to make the software available to an unauthorised third party unless our express permission has been given. The customer shall commit to notifying us without delay of instances where the industrial property rights of third parties are affected with regard to the software delivered and to bear the costs of legal defence to be undertaken by us. In the event of assertions made regarding the industrial property rights of third parties, we shall be entitled to act at our own expense in undertaking necessary alterations to software even in cases where goods have been delivered and paid for.

In every case where hardware is sold on, only the rights stated above shall be transferred to the new owner. All other rights in the programmes shall be retained exclusively by us.

## § 10 Ownership of and copyright in documentation

We shall retain ownership of and copyright in technical documentation, diagrams and drawings which we make available to the customer. The customer is not permitted to make such documentation accessible to unauthorised third parties. In the event that the customer is in breach of this duty or commits any other misuse, we shall be entitled to require return of the documentation.

## § 11 Secrecy, confidentiality

The customer agrees that data we receive within the scope of the business relationship may be stored and processed via an IT system.

Data will be treated strictly confidentially and statutory stipulations will be complied with. Insofar as the contractual parties exchange confidential information of a commercial or technical nature or one party becomes aware of information from the sphere of the other party which is usually viewed as a business secret, e.g. customer data, they shall commit to treat such information strictly confidentially and not to make the information available to third parties nor use the information for any purpose other than for the execution of the contract.

Information which is demonstrably in the public domain, information which enters the public domain without any action on the part of one of the contractual parties, information which becomes known to one of the contractual parties from another source which has no duty of confidentiality towards the other contractual party and information which must be disclosed by one of the contractual parties on the basis of compulsory statutory stipulations (in particular to courts, law enforcement agencies and government authorities) shall be exceptions to the mutual duty to maintain confidentiality.

Each of the contractual parties shall commit to returning all confidential information physically transmitted by the respective other contractual party to said other contractual party at any time following a relevant request or, by the choice of the other party, to destroy such information without retaining copies or records. Records, summaries and evaluations made by a contractual party and containing confidential information shall

be destroyed without delay at the request of the other contractual party to delete electronically transmitted and/or stored confidential information. Written confirmation shall be provided to the other contractual party on request that destruction/deletion has been carried out.

Notwithstanding this, the above regulations do not apply to copies which need to be kept in a confidential file by one of the contractual parties for the purpose of evidence.

The term of the present duty of confidentiality exceeds the term of purchase, work and service agreements by five years.

### **§ 12 Miscellaneous provisions**

We shall be entitled to avail ourselves of the assistance of third parties for the purpose of fulfilling our contractual obligations. This shall be without prejudice to our responsibility pursuant to the present agreement.

In the case of delivery agreements on a requisition basis, the supplier shall, insofar as nothing to the contrary has been agreed, be notified of binding quantities at least one month prior to the delivery date via requisition. Additional costs caused by delayed requisition or by subsequent amendments to the requisition regarding schedule or quality made by the orderer shall be borne by the orderer.

No side agreements have been made.

In the event that one of the provisions contained within the present agreement should be or should become invalid, this shall be without prejudice to the validity of other provisions herein contained. Such an invalid provision shall be replaced with a valid provision that as closely as possible reflects the economic purpose of said invalid provision. Statutory provisions shall otherwise apply.

Place of jurisdiction shall be Siegen insofar as the customer is a Registered Trader under German Law within the meaning of German Commercial Code (HGB), a legal entity under German public law or a special fund under German public law. The same shall apply in the event that the customer does not have a general place of jurisdiction in the Federal Republic of Germany. Notwithstanding this, we shall also be entitled to assert a legal claim at the location of the Registered Office of the customer.

The present agreement is governed by the law of the Federal Republic of Germany. Conflict-of-law provisions under international civil law shall not apply. The UN Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.

No amendments or supplements to the present General Terms and Conditions shall be valid unless made in writing.

Electronic documents such as e-mails without a qualified electronic signature do not constitute the written form within the meaning of the German Signatures Act. Invoices transmitted to us electronically and not containing a qualified electronic signature of this kind will not be accepted.