

### 1. General / area of application

- a) Our services are provided and our proposals made exclusively on the basis of these "General Terms and Conditions of Business". Depending on the underlying legal transaction, we reserve the right to impose additional supplementary regulations on the customer, which are then attached to these "General Terms and Conditions of Business". When an order is granted and we confirm the order, these regulations become a part of the contract. In commercial business dealings, they apply for all future business relationships, and require no repeated express agreement. Our "General Terms and Conditions of Business" also apply in business dealings with non-merchants, if reference to their inclusion is made in the contents of the contract, they are brought to the attention of the customer, and their inclusion is not expressly contradicted by the customer. In commercial business dealings, they apply without restriction if they are not expressly contradicted.
- b) Differing terms and conditions of our customers which we do not expressly acknowledge are not binding on us, even if we have not expressly contradicted them.
- c) All declarations which concern the contract relationship and its fulfilment require the written form, and (additionally) an express reference to the underlying contract. This applies in equal measure for a removal of this requirement for the written form.
- d) Insofar as the written form is agreed in these "General Terms and Conditions of Business", the text form in the sense of § 127b BGB (Bürgerliches Gesetzbuch, German Civil Code) shall also be included and be permissible.
- e) Should individual provisions of these "General Terms and Conditions of Business" or of a contract concluded with us be or become ineffective or contestable, the contract remains otherwise undisturbed by this partial ineffectiveness. The ineffective or disputable provision shall be replaced by a provision which comes commercially as close as possible to that which was intended when the contract was concluded.

### 2. Conclusion of contract

- a) A contract does not come into being until we accept the order with our order confirmation, in writing.
- b) All written documents conveyed with our proposals, and, in particular, technical information contained therein, are subject to confirmation and are not binding unless they are confirmed by us in writing. Divergences from such information remain expressly reserved, and are permissible without it being possible to derive therefrom any claims against us.
- c) Our written order confirmation is exclusively determinative for our obligation to supply.
- d) Insofar as we have submitted an individual proposal for supply, this is made on the basis of the specific statements of the customer. The customer takes the responsibility for ensuring that the services offered on this basis correspond to his wishes and needs. Insofar as the customer wishes to agree binding specifications, he has to stipulate these in writing. They do not become effective until they are confirmed by us in writing.

### 3. Prices

- a) The terms and conditions of the respective proposal or of the order confirmation, as appropriate, apply.
- b) Our benefits are due on submission of invoice and are to be paid within the period stated in the invoice (60 days if not otherwise agreed) and without deduction. All prices are stated exclusive of VAT (value added tax) except for all German customers and customers in the European Union (EU) that did not supply a valid VAT Id. of their organization.
- c) If the customer falls into payment arrears, we are entitled to charge interest on arrears in the amount of 5 %, or insofar as a consumer is not involved in the legal transaction of 8 %, over the base interest rate.

### 4. Delivery

- a) Delivery and supply periods and dates are binding on us only

when we have expressly agreed these in writing. A period has been observed when the subject of the contract or of supply is made available by us before expiry of the period. Insofar as not expressly otherwise agreed, notification to the customer of readiness to supply satisfies the obligation to make available. Periods begin on the day of our order confirmation.

- b) The delivery or supply period is extended appropriately in the case of occurrences of force majeure, strike, lock-out, lack of raw materials, operational disruptions, civil uprising, war, terrorist action and other circumstances for which we cannot be held responsible. This also applies if such circumstances occur at our suppliers.
- c) Our liability for damages for arrears is in all cases restricted to the amount which the customer has actually paid for the subject of the contract. The customer only has a right to withdraw from the contract, or to compensation for damages in place of supply, if he sets an appropriate period of grace of at least two weeks for carrying out the supply, and we have allowed this to expire fruitlessly.

### 5. Acceptance / Warranty

- a) The customer is obliged to inspect the product for defects immediately after it has been made available. The customer has to notify us in writing of any apparent defects without delay, and in any case at the latest two weeks after the product has been made available. If no such complaint is made, acceptance is deemed to have occurred. Complaints of defect by a merchant for apparent defects will be accepted only within one week, and, for concealed defects, only when they are made without delay, and at the latest within one week after they are discovered, whereby the burden of proof of the actual circumstances lies with the customer.
- b) Defects which do not impair the capability of the product to function do not entitle the customer to refuse acceptance if normal use of the product or use in accordance with the contract is not thereby impaired.

### 6. Rights of offsetting and of retention, assignment, partial supplies

- a) The customer is entitled to offset only against undisputed claims and claims which have been established as legally effective. The customer is only entitled to exercise rights of retention against undisputed claims from the same legal relationship and claims from the same legal relationship which have been established as being legally effective.
- b) Assignment of claims against us is excluded. Partial deliveries and partial supplies and corresponding accounting are permissible.

### 7. Acceptance arrears

If the customer does not accept the product, or does so only partially, he is in acceptance arrears if he does not accept the product offered within a period of grace set by us. In the case of acceptance arrears, we are entitled to dispose otherwise of the subject of delivery and to provide a new delivery to the customer within an appropriate period. If a specific standard product is to be provided by us, the risk transfers to the customer at the point in time at which acceptance arrears arise. During acceptance arrears, we only have to take responsibility in any event for malicious intent and gross negligence. We can require the customer to refund additional costs which arise for us. In addition, we are entitled to withdraw from the contract and to require compensation for damages.

### 8. Liability

- a) We make warranty for the careful and professional execution of our products in accordance with the applicable regulations, but in any case restricted to the duration of one year. Claims of the customer based on deficient products are restricted to rectification of the deficiency at no charge. If repeated correction of the deficiency is unsuccessful or if this is refused by us, the customer is entitled to an appropriate reduction of the agreed compensation, or can withdraw from the contract. Claims for compensation for damages are excluded insofar as we are not charged with malicious intent or gross negligence. This exclusion of liability does not, however, apply for damage arising from injury to life,

limb or health which is based on negligent breach of obligation on our part or on malicious or grossly negligent breach of obligation on the part of one of our legal representatives or auxiliary agents.

- b) Personal liability of employees or sub-contractors who are acting as our auxiliary agents is excluded.
- c) If a computer system of the customer is used for the supply of the products, the customer recognises his sole responsibility for ensuring that all appropriate measures are taken before the beginning of supply of the products in order to safeguard his programs and systems against permanent loss. We are not liable for loss or damage to data if the customer has not taken appropriate measures to secure data, and otherwise only in the amount of the costs for reconstitution when properly taken back-up copies are available.

## 9. Retention of ownership

We retain ownership of all products supplied by us until the customer has settled all claims against him to which we are entitled on any grounds whatsoever. Exercise of retention of ownership does not signify withdrawal from the contract.

## 10. Special conditions for software products

- a) Insofar as software is included in the scope of services, this is provided to the customer exclusively for his own use. Copying of these programs is permitted only for the purposes of data security. Reproduction by the customer going beyond this is not permitted.
- b) A multiple or transferable right of use requires a special written agreement.
- c) Otherwise, the rights and obligations of the customer are determined according to the conditions of the separately agreed software licence contract, which the customer hereby obligates himself to observe and to comply with.
- d) We reserve the right to alter, to supplement and to improve programs, and to replace them with newly developed versions.
- e) We guarantee support and update service free of charge until one year after purchase, unless a different time period is specified on the invoice or other agreement.
- f) The obligation to warranty lapses insofar as the contract partner or a third party, without our agreement, changes the software supplied or parts of it.
- g) The customer has to guarantee the fulfilment of his obligations arising from these terms and conditions, particularly with regard to the use, reproduction, modification, protection and safety of programs, with appropriate measures, in respect of employees and third parties to whom access to the programs is granted. These obligations continue to exist for the customer even after the contract relationship has ended.

## 11. Supplementary provisions for the properties of software

- a) Software which is the subject of the contract, insofar as not expressly agreed otherwise, is standard software which is not produced individually for the needs of the customer. Contracts for supply of software are therefore sales contracts. The parties are in accord that it is not possible in the current state of technology to develop standard software which is free of defects for all application conditions.
- b) If we are obligated to install software, the customer ensures that the requirements communicated to him for hardware and the remaining environment, particularly the connection to the computer network including all cabling, are fulfilled before installation.
- c) During test operation and during the installation, the customer guarantees the presence of competent, trained employees, and will if necessary halt other works on the computer equipment. He will ensure that all his data is secured before each installation.

## 12. Data protection / confidentiality

- a) We accept the obligation to treat confidentially information – regardless of what kind – about the business and/or operational internals of the customer. We are entitled to store and to process within the sense of the German Data Protection Act (Datenschutzgesetz) data about the customer which we receive in connection with the business relationship, regardless of whether this originates from the customer himself or from third parties, insofar as this is necessary for the business relationship. The data will – apart from legal or official duties of notification – be passed

on to third parties only with the agreement of the customer.

- b) Equally, the customer is also obligated with respect to us to treat confidentially all information which becomes known to him within the framework of the business relationship.

## 13. Endangerment of entitlement

- a) If it becomes recognisable after the conclusion of the contract that the entitlement to the counter-performance is endangered by the lack of ability of the customer to provide it, the customer is obligated to performance in advance, even if there is otherwise no obligation to performance in advance, if our contractual obligation consists of provision of a work, provision of services, or delivery of goods which are to be acquired for the customer and cannot be otherwise disposed of at any time (popular goods).
- b) If payment in instalments is agreed, the whole remaining entitlement becomes due if the customer finds himself wholly or partly in arrears with at least two consecutive instalments. Respite agreements become ineffective if the customer falls into arrears with performance or if the preconditions of § 321 BGB with respect to a claim occur.

## 14. Co-operation of the customer in the event of defects

- a) For any subsequent improvement which may become necessary, the customer has to provide us with the information necessary for diagnosis and rectification of the defect, and to make available to us in the case of subsequent improvement by remote data transmission or telephone a trained and competent employee, who co-operates in the subsequent improvement. In the event of subsequent fulfilment on site, we are to be given reasonable access to the defective goods, and other works on the hardware or in the network of the customer are, if necessary, to be halted.
- b) The customer is obliged to notify defects determined in as much detail as possible and as far as possible reproducibly.
- c) If the customer makes claim against us for subsequent fulfilment, and it becomes established that there is no entitlement to subsequent fulfilment (e.g. user error, incorrect treatment of the goods, lack of a defect), the customer has to refund to us all costs which arise in connection with the examination of the goods and the subsequent fulfilment, unless he is not responsible for our avilment.
- d) If claims are made against the customer for infringement of the rights of third parties or for desisting from further use of the subject of supply, he has to inform us of this without delay.

## 15. Export

We draw attention to the fact that that export of the goods supplied may require permission in advance from the authorities. Binding information relating to export is provided by the Federal Office of Economics and Export Control (Bundesamt für Wirtschaft und Ausfuhrkontrolle). Declarations of agreement which may be required are to be obtained by the customer independently. If requested, we will obtain this information or permissions, after empowerment by the customer, in return for compensation.

## 16. Place of judgement and applicable law

- a) Place of fulfilment and – insofar as the customer is a merchant, a publicly incorporated company, or a special fund under public law – place of judgement for all disputes arising from or in connection with the order is Münster (Germany), whereby we are, however, entitled to make suit against the customer at any other legal place of judgement. For all other customers, Münster is agreed as the place of judgement for all disputes arising from the contract relationship in the case that the party against whom suit is to be made moves his place of residence or normal place of abode outside Germany, or his place of residence or normal place of abode is not known at the time of initiating the suit.
- b) These Terms and Conditions of Business and all business relationships between the parties are subject to the substantive law of the Federal Republic of Germany. German law is also applicable without restriction in the case that supply is made to a foreign purchaser. Application of the United Nations Convention on Contracts for the International Sale of Goods is excluded.