

## General Terms of Delivery and Payment

### I. General

1. With regard to the scope of supplies or services to be rendered (hereinafter referred to as Supplies), the written mutual agreements in this regard shall be authoritative. In any case, any terms and conditions of the Purchaser shall apply only if the supplier or service provider (thereinafter referred to as Supplier) has expressly consented to such terms or conditions in writing.
2. The Supplier reserves his intellectual rights, copyrights, and rights of exploitation in documents such as cost estimates, program descriptions and other documentation (hereinafter referred to as documentation) without limitation. Disclosure of any documentation to third parties is prohibited without the Supplier's prior consent. If no order is placed with the Supplier, such documentation must be returned upon request without delay. Clauses 1 and 2 shall apply to the Purchaser's documentation accordingly. However, the Purchaser's documentation can be made available to third parties who the Supplier has assigned to make Supplies, as is admissible under the given terms and conditions.
3. The Purchaser shall have the non-exclusive license to use standard software, provided that it remains unchanged, is used within the agreed performance parameters, and on the agreed equipment. The Purchaser has the right to make two backup copies, without prior express consent.
4. Partial Supplies are allowed, unless they are unreasonable to accept for the Purchaser.

### II. Prices and Terms of Payment

1. Prices are understood as ex works prices, packing not included; value-added tax shall be added at the then applicable rate.
2. If the Supplier has agreed to render installation, set-up or implementation services, and unless agreed otherwise, the Purchaser shall pay the agreed remuneration and bear all necessary incidental costs, such as travel expenses, costs for shipping the required tools, equipment and implements and personal baggage, as well as allowances for personnel.
3. Payments shall be made free Supplier's paying office.
4. The Purchaser is allowed to set off only those claims which are undisputed or have been established as non-appealable.

### III. Retention of Title

1. Items pertaining to the Supplies ("Retained Goods") shall remain the property of the Supplier until each and every claim the Supplier has against the Purchaser on account of the business connection has been fulfilled. If the combined value of all security interests of the Supplier exceeds the total amount of the secured claims by more than 20 %, the Supplier shall, if so requested by the Purchaser, release a corresponding part of the security interests.
2. For the duration of the retention of title, the Purchaser may not pledge the Retained Goods or use them as security. The Purchaser is permitted to resell the goods to resellers only in the ordinary course of business and only under the condition that the reseller receive payment from his customer or make the reservation that ownership is transferred to the customer only after the customer has fulfilled his obligation to pay.

3. In the event of seizure, attachment or any other type of disposition or intervention of a third party, the Purchaser must forthwith notify the Supplier of such circumstance.
4. If the Purchaser fails to comply with his duties, including failure to make payments due, the Supplier shall be entitled to terminate the contract and take back the Retained Goods; the Purchaser is obligated to surrender the Retained Goods. Taking back the goods or asserting a reservation of title does neither presuppose nor imply a termination of the contract. Such action or a seizure of Retained Goods sold subject to a retention of title by the Supplier do not imply a termination of the contract, unless the Supplier expressly declares otherwise.

### IV. Delivery Dates; Delays

1. Adherence to the dates agreed for the delivery of the Supplies requires that all documentation to be delivered by the Purchaser arrives in time; this includes the necessary approvals and releases, especially of the drawings. Furthermore, the Purchaser is required to comply with the agreed terms of payment and other relevant obligations. If these prerequisites are not met in time, the delivery dates are extended appropriately; this shall not apply if the delay lies within the Supplier's responsibility.
2. If the failure to comply with the delivery dates can be attributed to force majeure, e.g. mobilization, war, riots, or to similar events, such as strike or lockout, the delivery dates shall be extended appropriately.
3. If the Supplier is responsible for the delay, the Purchaser may claim — provided that he satisfactorily proves that the delay has resulted in a loss or damage to him — a compensation as liquidated damages of 0.5 % for each full week of the delay; the total amount, however, shall not exceed 5 % of the price for that part of the Supplies which could not be put to the intended use on account of the delay.
4. In all cases of delayed delivery, Purchaser's claims for damages due to delayed Supplies as well as claims for damages in lieu of performance, exceeding those described in sub-clause 3 above, shall be excluded, even after expiration of a grace period which might have been granted to the Supplier. This shall not apply if there is a mandatory cause for liability as in cases where the damage was caused intentionally or by gross negligence or in cases of physical injury or death. This does not result in a reversal of the burden of proof to the disadvantage of the Purchaser. The Purchaser's legal right to terminate the contract shall remain unaffected but shall be limited to cases where the Supplier is responsible for the delay.
5. At the Supplier's request the Purchaser shall declare within a reasonable period of time whether the Purchaser terminates the contract due to the delayed Supplies or insists on the Supplies to be carried out.
6. If dispatch, shipment or delivery are delayed upon the Purchaser's request by more than one month after the announcement of readiness for dispatch, the Supplier can charge, for every month commenced, a storage fee of 0.5 % of the price of the items of the Supply, however not more than a total of 5 %. The contractual partners are free to provide evidence of higher or lower storage expenses.

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### V. Transfer of Risk

1. Even where delivery has been agreed freight free, the risk shall pass to the Purchaser as follows:
  - a) In the case of Supplies not including installation, erection or assembly services, at the time when the delivered goods were brought to or picked up at the carrier. Upon the Purchaser's request and at the expense of the Purchaser, Supplies shall be insured by the Supplier against the usual risks of transport;
  - b) In the case of Supplies including installation, erection or assembly services, the day they are taken over into the Purchaser's own operation, or following a fault-free trial run if so agreed.
2. The risk shall pass to the Purchaser if there is a delay — for reasons within the Purchaser's responsibility — affecting dispatch, delivery, beginning or performance of the installation, erection or assembly work, or the taking over of the goods into the Purchaser's own operation, or affecting the trial run, or if the Purchaser has otherwise failed to accept the Supplies.

### VI. Acceptance and Duty to Examine the Goods

1. The Purchaser shall not refuse acceptance of the Supplies on the grounds of minor defects.
2. If the Purchaser sold the Supplies, in whole or in part, in the course of normal business, or used them in accordance with their normal use or changed them before he discovered a defect, his rights with regard to the defect are unaffected, only if and insofar as he had examined the goods immediately upon arrival — as far as expedient for the proper course of business — and provided that the defect has not been noticeable at that time.

### VII. Defects in Quality

The Supplier shall be liable for defects in quality ("Sachmängel", hereinafter referred to as "Defects") as follows:

1. At his choice, the Supplier shall repair, replace or provide again, free of charge, all those parts or services which are found to be defective within the relevant period of limitation — irrespective of the effective operating time — provided that the cause of the Defect already existed when the risk passed to the Purchaser.
2. Claims based on defects in quality become statute-barred after 12 months. The period of limitation begins with the passing of the risk (as per Section V).
3. As soon as the Purchaser detects any defects in quality, he shall, without undue delay, file a written notice of defect with the Supplier.
4. In case notices of Defect have been submitted, the Purchaser shall be entitled to withhold payment to an extent as is appropriate in relation to the defects detected. The Purchaser can withhold payment only if the subject-matter of the notice of Defect put forward is justified beyond doubt. If the notice of Defect is unjustified, the Supplier is entitled to demand compensation from the Purchaser for any expenditure in this context.
5. The Supplier shall always be given an opportunity to supplement its performance ("Nacherfüllung") within an adequate period of time.
6. If supplementary performance fails, the Purchaser may terminate the contract or reduce the remuneration,

without prejudice to possible claims for damages under article XI. The Purchaser cannot claim compensation for ineffectual expenditures.

7. There shall be no claims based on insignificant non-conformances with the agreed quality, or on an insignificant impairment of usefulness, natural wear and tear, or on damages which were caused — after the risk has passed — by incorrect or negligent handling, excessive strain, unsuitable operating material, defective civil works, unsuitable building ground, or which have developed as a result of special outside influences that were not considered in the contract, or based on non-reproducible software errors. Claims based on defects attributable to improper modifications or repair work carried out by the Purchaser or by third parties and the consequences thereof shall likewise be excluded.
8. Claims made by the Purchaser with regard to expenditures for supplementary performance shall be excluded in cases where the expenditures are increased by the fact that the object of supplementary performance was transported to a location other than the Purchaser's premises, unless this special shipment is in accordance with the specified use of the object.
9. Any Purchaser's rights of recourse against the Supplier are valid only if the Purchaser did not enter any agreements with its customers that exceed the scope of the statutory provisions governing claims based on Defects. Moreover, the provisions of Clause 8 above shall apply mutatis mutandis to the scope of the Purchaser's right to make recourse claims against the Supplier.
10. Furthermore, the provisions of article XI (Other Claims for Damages) shall apply in respect of claims for damages. Any further claims made by the Purchaser or claims exceeding those provided for in this article VIII that are maintained against the Supplier or his agents on the basis of a defect in quality shall be excluded.

### VIII. Industrial Property Rights and Copyright; Defects in Title

1. Unless agreed otherwise, the Supplier shall, with respect to the country of the place of destination of the Supplies, be obligated to provide the Supplies free from third parties' intellectual and industrial property rights and copyrights (hereinafter referred to as IPR). If a third party asserts a justified claim against the Purchaser on the basis of a violation of IPR with respect to Supplies which were supplied by the Supplier and used in conformity with the contract, the Supplier shall be liable to the Purchaser, within the time period stipulated in article VII, Sub-clause 2, as follows:
  - a) At his choice, the Supplier shall either obtain a right of use for said Supplies at his expense, modify the Supplies to make sure that this particular IPR is not violated, or replace them. If the Supplier is not in a position to accomplish this under reasonable conditions, the Purchaser shall have the right to terminate the contract or to reduce the amount of remuneration pursuant to the applicable statutory provisions. The Purchaser cannot demand compensation for ineffectual expenditures.
  - b) The Supplier's liability to pay damages shall be governed by the provisions of article X.
  - c) The foregoing obligations of the Supplier shall only apply if the Purchaser (i) informs the Supplier about the claims made by third parties in writing and without undue delay, (ii) does not concede the existence of an infringement, and (iii) if all defensive

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action and negotiations for settlement are left to the Supplier. If the Purchaser stops using the delivered goods in order to mitigate damages or for some other important reason, he shall be obligated to inform the third party of the fact that a suspension of use does not mean that any IPR violation is being admitted.

2. Claims of the Purchaser shall be excluded if an IPR violation lies within his responsibility.
3. Claims of the Purchaser shall also be excluded if the infringement of the IPR is caused by specifications made by the Purchaser, or attributable to a type of use which was not foreseeable by the Supplier, or to the Supplies being modified by the Purchaser or being used together with products not provided by the Supplier.
4. With regard to Purchaser's claims pursuant to Sub-clause 1 a) above, article VII, Sub-clauses 4, 5, and 9 shall apply mutatis mutandis in the event of an infringement of an IPR.

In the case of any other defects in title, the provisions of article VIII shall apply mutatis mutatis.

Any further or other claims against the Supplier or its agents or any such claims exceeding the claims provided for in this article VIII, based on a defect in title are excluded.

### IX. Impossibility to Perform; Adaptation of the Contract

1. To the extent that Supplies are impossible to be carried out, the Purchaser shall be entitled to claim damages, except in those cases where the impossibility of Supply is beyond the Supplier's control. However, the Purchaser's right to claim for damages shall be limited to 10 % of the value of that part of the Supply which cannot be put to the intended use due to said impossibility to perform. This limitation shall not apply in cases of mandatory liability based on intent, gross negligence, physical injury or death; this does not imply a reversal of the burden of proof to the disadvantage of the Purchaser. The Purchaser's right to terminate the contract shall remain unaffected.
2. If the impossibility of performance is temporary, Section IV (Delivery Dates; default) shall apply.
3. As far as unforeseeable events within the meaning of article IV, Sub-clause 2, will considerably affect the economic significance or the contents of the Supplies or affect the Supplier's operations, the contract shall be adapted taking into account the principles of reasonableness and good faith. If such an adaptation is economically unreasonable, the Supplier shall be entitled to terminate the contract. If he wishes to exercise his right to terminate the contract, he shall inform the Purchaser accordingly as soon as he realizes the full extent of the repercussions of the event; this shall also apply if an agreement was initially made with the Purchaser regarding an extension of the delivery time.

### X. Other Claims for Damages

1. Any claims for damages and reimbursement of expenses made by the Purchaser, regardless on what legal grounds, especially those based on an infringement of duties arising in connection with the contract or those resulting from a tortious act or omission, are hereby excluded.
2. The above shall not apply to cases where mandatory liability applies, e.g. under the German Product Liability Act ("Produkthaftungsgesetz"), in cases of damages

caused intentionally or by gross negligence, or in cases of physical injury, non-fulfillment of guaranteed characteristics ("Beschaffenheitsgarantien") or if contractual obligations which go to the root of a contract ("wesentliche Vertragspflichten") have been violated. However, any damage claims for a violation of contractual obligations which go to the root of a contract, shall be limited to the foreseeable damage which is intrinsic to this contract, except in those cases where the damage was caused intentionally or by gross negligence or in cases of physical injury or where liability is required for a guaranteed characteristic of the Supply. The aforementioned stipulations shall not imply a reversal of the burden of proof to the disadvantage of the Purchaser.

### XI. Place of Jurisdiction and Applicable Law

1. The legal domicile of the Supplier shall be the sole place of jurisdiction — provided the Purchaser is a commercial company — with regard to disputes resulting directly or indirectly from this contractual relationship. However, the Supplier has the right to take legal action at the domicile of the Purchaser as well.
2. The contractual relationship shall be governed by German substantive law, to the exclusion of the contents of the UNCITRAL Convention on Contracts for the International Sale of Goods (CISG).

### XII. Severability Clause

Invalidity of one or more provisions of this contract shall in no way affect the validity of the remaining provisions. This shall not apply if abiding by the contract would constitute unreasonable hardship for one of the parties.

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