

General Terms and Conditions

**Date 29.03.2018**

1. Reserving any agreements to the contrary in the individual case, contracts with us will only be concluded following the standard of these provisions; on the issue of an order, the customer declares consent to these terms and conditions. We do not recognize contrary or variant conditions of the customer unless we expressly recognize their validity in writing. These terms and conditions also apply if we conclude a contract in full knowledge of contrary or variant terms and conditions on the part of the customer.

2. These general terms and conditions apply to all contracts concluded with us, even if they are not expressly mentioned in later contracts or orders. Any previously agreed-upon general terms and conditions are herewith superseded.

## **II. Conclusion of Contract/ Cost Estimates/ Non-Binding Disclosures**

1. Orders and commissions from customers only lead to the concluding of a contract if the customer receives an order confirmation or if we begin performing the service. A contract also comes into existence if the customer accepts our offer without reservation within a tender submission period of six weeks or a differing submission period named in the bid. If we issue a written order confirmation, it will be binding for the content and scope of the contract to the extent that nothing to the contrary is agreed upon and the customer does not object to the variation within a reasonable period of time.

2. All declarations and communications in the framework of the contractual relationship and the business relationship must be affected in writing, and this includes fax or e-mail, to the extent that nothing to the contrary is specified expressly in these conditions. This also applies to the suspension of this clause.

3. Cost estimates as well as non-binding disclosures from us with reference to price, scope, type and duration of services to be provided as well as the costs to be expected are subject to change. They represent so-called "approximate values". They do not include any assurance. They only become a binding part of a contract if they are issued in writing and without any reservations on our part.

## **III. Executing the Order and the Customer's Obligations to Cooperate**

1. To the extent that nothing else is expressly agreed upon, we owe only the services precisely specified in the contract, which we will perform under due consideration of the generally recognised rules of the trade and legal requirements. Our recognised experts and trained personnel are autonomous in the performance of testing and expert assessment assignments.

2. We will not provide any compensation for damage or destruction of objects belonging to the customer resulting from proper and correct

execution of our services. If, as a result of or on the occasion of a proper execution of our service, our own equipment is damaged, destroyed, or lost without our culpability, we are entitled to demand compensation from the customer in corresponding application of § 670 BGB [German Civil Code]. Transport and return transport of objects belonging to the customer will be affected at cost and risk to the customer. During storage by us, our liability is restricted to our own usual and customary due diligence.

3. The customer must fully provide us with all relevant facts relating to the performance of our service. We are strictly not obligated to review the data, information or other services provided by the customer for completeness and accuracy, to the extent that there is no reason to do so under consideration of the particular conditions of the individual case and/or the

order does not expressly include this.

4. To the extent that active cooperation on the part of the customer is required for our service, the customer is obligated to perform such action at own cost; any expenses incurred by the customer will only be reinstated if this was expressly agreed upon. To the extent that the customer does not fulfil its obligations to cooperate, does not promptly or does not fulfil them properly, we are entitled to bill the customer for additional expenses resulting from this. Any additional legal claims are expressly reserved.

5. If we do work outside of our own business premises, the customer is responsible for taking all measures necessary to fulfil all road safety obligations to the extent that nothing else issues from the nature of the matter or an arrangement with the customer. We are entitled to refuse to perform the service as long as the necessary measures are not taken.

6. To the extent that we export services or create goods on order from the customer, the customer is obligated to initiate and implement the required cooperative act for import and export at own cost.

7. To the extent not otherwise agreed to expressly and in writing, we send all deliveries as uninsured regular mail or courier packages. To the extent that delivery is to be insured on customer request, the customer is obligated to declare the insurable value of the object and to the extent the object is a 'sensitive' object, such as a prototype, to inform us of this. Should insuring the object in the value declared prove impossible or, in the case of sensitive objects, if there are security concerns in association with the transport, we will inform the customer immediately. The customer will then name its own transporter for us or conclude a written agreement with us concerning transport of the object. All costs as well as the shipping risk will be borne by the customer. We will cede any claims of recourse on our part against the transporter to the customer on written request from the customer.

The customer is obligated to inspect the goods and services that we deliver immediately after delivery or completion, to the extent that this is feasible within a regular course of business operations. Any noticeable defects must be reported to us in writing immediately, at the latest 5 working days after discovery. The customer must describe the defect in question in the greatest detail possible. If the customer fails to make the report, the good or the service provided will be deemed with respect to the affected defect to be approved.

#### **IV. Periods and Deadlines**

1. All indicated delivery and performance periods, delivery periods and deadlines are non-binding approximations unless adherence to them as binding is expressly assured in writing. Should a non-binding deadline or non-binding period be exceeded, we will only be in default if the client first has established in writing a reasonable period for us in which we are to provide the service we owe and this period elapses to no effect. Prior to this the client is not entitled to withdraw from the contract or asset any claims for compensation for damages. In any case, allotted time periods only count down after the client has performed all the obligatory cooperative actions completely as well as after the receipt of any agreed-upon pre-payment. Any later requests for changes or delayed cooperative acts on the part of the customer will delay the performance deadlines correspondingly.

2. If the service we owe is delayed due to unforeseeable events for which we are not culpable (e.g. labour disputes, business failures, obstacles to transportation, shortages of raw materials, official acts- in each case even with our sub-suppliers-as well as delayed internal supply), we are entitled

to withdraw from the contract in whole or in part, or, at our discretion, to extend the deadline for delivery of service by the duration of the delay. We will immediately inform the customer about any unavailability of the service and in the event we withdraw from the contract, we will repay any already paid consideration. Any claims for compensation for damages are excluded.

3. If the customer comes into default of acceptances or if the customer violates other obligations of cooperation, we are entitled to demand compensation for any added expenses which accrue to us as a result.

4. If we come into default for reasons for which we are responsible, or if our ability to perform the services is eliminated for reasons for which we are responsible, or if we can refuse service under grounds stated in § 275 Para. 2 or 3 BGB [German Civil Code], we will provide compensation as specified in Number XI.

#### **V. Prices and Payments**

1. All stated prices are understood plus the legally mandated VAT, to the extent applicable. Billing statements are due payable on receipt, unless other payment modalities are arranged. Discounts or other reductions in price are only permissible, if they have been separately agreed upon in writing. Checks and bills of exchange can be refused. Their acceptance will in any case proceed for payment only. To the extent not otherwise expressly arranged, time out of office including waiting time and travel costs will be billed to the customer separately.

Default on the part of the customer occurs - without any need for a written reminder on our part- for activities

- ▶ for customers inside Germany after 8 calendar days from receipt of invoice
- ▶ for customers inside the EU after 14 calendar days from receipt of invoice and
- ▶ for customers outside of the EU after 30 calendar days from receipt of invoice.

Interest is charged for default periods at rates of 8 percentage points above the currently applicable prime lending rate. To the extent relevant, the customer is obligated to pay the legally mandated VAT applicable in each case. Other taxes and duties such as withholding tax or import duties that are imposed on our goods or services will be borne by the customer. To the extent that claims are levelled against us for such taxes and duties the customer will release us from these claims.

2. To the extent that no fixed price was agreed upon and it becomes apparent in the course of performance that the costs will exceed the amount proposed to the customer by more than 10%, we will inform the customer of this. The customer, in this case, is entitled to cancellation of the contract analogously to § 649 BGB [German Civil Code]. We will only bill for services that we have performed through this date. The like applies if we withdraw from the contract for due and sufficient cause or if it is annulled by mutual consent.

3. If we have several claims against the same customer, we will determine to which debt a payment will be attributed.

4. If, after the conclusion of the contract, it becomes apparent that our claims against the customer are endangered by deficient performance on the part of the customer, we are entitled to carry out outstanding services only in return for pre-payment or payment of a security and to withdraw from the contract after a reasonable time period has expired without result; Clause

2, Sentence 3 of this Section applies analogously.

5. The customer can only offset against our claims if its counter-claims are legally established, undisputed or recognised by use. The customer can only assert a right to repayment to the extent that it is based on claims deriving from the same contractual relationship.

#### **VI. Reservation of Title**

1. We retain ownership of all goods that we deliver until they are paid for in full. In the case of a current account or recoding of claims on an open-item basis, the retention of ownership is considered a security for the balance claim. Should the customer engage in conduct violating the contract, especially in cases of default of payment, we are entitled to take back the goods delivered. After taking these goods back, we are entitled to commercialise them. The proceeds from the sale are to be credited to the customer's financial obligations- minus appropriate costs for disposition. Any amount exceeding the customer's obligations to us will be paid out to the customer immediately.

2. In the case of liens or other encroachments on the goods subject to reservation of title by third parties, the customer is obligated to inform us immediately, so that countermeasures can be initiated in a timely fashion and a legal complaint can be submitted in conformity with § 771 ZPO [German Code of Civil Procedure]. To the extent that the third party is not able to compensate us for the costs incurred by this, the customer is liable as the sole debtor for the losses we incur.

3. If the goods delivered are combined by the customer with other objects into a new good and the other good is be regarded as a primary good, we obtain co-ownership in the primary good of the xtent that it belongs to the customer. Processing or re-shaping the delivered item by the customer is always done on our behalf. If the delivered good is processed with other items not belonging to us, we obtain co-ownership in the new good. For any such good created in this manner, the like applies as to goods delivered under reservation of title.

4. The customer is entitled to re-sell the delivered good in a regular business transaction. However, the customer cedes to us here and now all claims from the sale to a buyer or third party in the amount of the billed total of our claims (incl. VAT), and this regardless of whether the delivered good is re-sold with or without processing. The customer remains entitled to collect this claim even after the cession. Our authorisation to collect ourselves is not affected by this. However, we pledge not to initiate collection as long as the customer meets its payment obligations from the collected proceeds, does not come into default of payment and especially as long as no application to open bankruptcy proceedings is submitted or payments have been suspended. In these cases we are entitled to revoke the customer's authorisation to collect.

5. We are obligated to release those securities to which we are entitled on customer request in so far as the realisable value of these securities exceeds the value of the claims being secured by more than 10 %. We will select the securities to be released, however, we will take the customer's legitimate interests into account.

#### **VII. Performance of Services**

1. Continuing obligations for performance of services of any kind will be concluded for a contractually agreed-upon period. Regular cancellation is excluded for this period. If the contract is not cancelled in writing in each case on condition of a notice period of one month to agreed or extended end

of the contract, the contract will automatically renew for one year. Contracts that are concluded for an indefinite period can be cancelled in writing by either period on condition of a notice period of three months to the end of the month.

2. The right to cancellation without notice for due and sufficient cause remains unaffected by this. The customer is only entitled to exceptional cancellation without notice, if the customer has, in the event of a breach of contract, previously requested in writing that we properly meet our contractual obligations and the request has remained without effect. A due and sufficient cause for cancellation without notice by us exists if the customer comes into default of payment obligations, has suspended payments, if a bankruptcy proceeding is initiated against the customer's assets, or if the customer fails to meet its obligations to cooperate under III in spite of written requests and after a reasonable grace period has passed without effect.

3. If we owe the customer the manufacture of a work or a success, the customer must, in cases defective performance, give us opportunity to provide subsequent fulfilment within a reasonable period, to the extent that subsequent fulfilment is not unreasonable to the customer in that specific case or there are special circumstances that justify an immediate withdrawal or cancellation by the customer, under due consideration of the interests of both sides. We are entitled to undertake subsequent fulfilment at our discretion. If our attempt to remedy defects fails after a second attempt at subsequent fulfilment, the customer, at its discretion, is entitled to reduce compensation or cancel the contract. The customer is only entitled to claims to

compensation for damages according to the standard given in Number XI. The right to withdraw and any claims to compensation for damages however are excluded if the defect is only negligible.

4. To the extent that our services require acceptance the customer is obligated to provide it. Insignificant defects that do not seriously detract from the suitability of the service for its contractually specified purpose, do not entitle the customer to refuse acceptance. Acceptance is deemed completed if the customer has actually used the service owed or if the customer does not request formal acceptance of the service within a period of two weeks of written notification of the completion of the service, which can also take the form of a final billing statement. At our request, self-contained portions of the service are to be accepted separately. In other respects, legal provisions apply.

5. Intellectual services are considered accepted if the customer does not express reservations expressly and in writing within 30 days of their receipt, giving a concrete description of the individual defects. This applies only if we expressly inform the customer of this legal consequence at the start of that period.

6. We only provide guarantees of the realisation of estimates or prognoses to the extent that this was expressly agreed upon.

7. If we receive a commission for testing, all of the statements and specifications we make apply always and only to the object provided for testing. If the object provided for testing is subsequently modified and/or software changes are made on the test object after the test has been performed, our statements and specifications about the test are no longer binding.

We provide no guarantee of the completeness and accuracy of the documents provided with the object being tested. Issue of a testing certificate includes

no statements concerning the suitability for use of the test object or its quality that goes beyond the actual content of the test certificate. The like applies for certificates in the framework of management system certification.

## **VIII. Rental and Leasing Contracts**

1. Rental and leasing contracts are concluded for the contractually arranged period. Regular cancellation is excluded for this period. If nothing else is arranged concerning the termination of the contract, the contract will in each case renew automatically for one year, if a contracting party does not cancel the contract in writing, observing a notice period of one month to the agreed upon or renewed start of contract. Contracts that are concluded for an indefinite can be cancelled in writing by either party on condition of a notice period of three months to the end of the month. The right of extraordinary cancellation without notice in conformity with § 543 BGB [German Civil Code] remains unaffected in the degree that we are entitled to cancellation if the customer comes into default on more than one payment. Number VII. 2. Sent. 3 applies correspondingly. If cancellation is declared with due effect, we are entitled to take possession of the rented object. The customer must allow the required access to its premises. Tacit renewal of lease or rental contract as described in § 545 BGB [German Civil Code] is excluded.

2. Liability for defects that were already present in the leased object at concluding of the contract is excluded unless it can be proven that we knew of the defects or were culpably ignorant of them due to gross negligence. The customer must report any defects to us in writing immediately. If there actually is a defect, the customer is entitled as of that point in time to reduce the compensation to be paid proportionally and in a reasonable amount. Measures of maintenance or repair required for the intended and proper use of the leased object, including any upgrades or updates, are not considered defects. In the framework of remediation of defects we are entitled, at our discretion, to repair the leased object or to exchange the object for one of the same type or value. The customer is not entitled to remedy the defect itself in return for reimbursement of expenses. Claims for compensation for damages are owed to the customer only in the degree specified in Number XI.

## **IX. Purchase Contracts**

1. If we owe delivery of an object, the risk of deterioration of accidental loss transfers to the customer as soon as the object leaves our business premises. This does not apply if the delivery of the object directly by us or an installation to the customer's business premises was expressly agreed upon. In cases of doubt, assume that personal delivery by us was not owed.

2. Claims deriving from defects on the part of the customer are excluded if the customer did not immediately report them on receipt of the service. Any additional duties to notify and inspect in conformity with § 377 HGB [German Commercial Code] remain unaffected.

3. To the extent that a defect in the purchase object exists, we are entitled, at our discretion, to remedy the defect or deliver an object free of defect. The customer must, using reasonable judgment, grant us time and opportunity to remedy the defect. If we are unable to remedy the defect or if we cannot fulfil our obligation to remedy the defect within a reasonable period to be set by the customer in writing, the customer can, at its discretion, withdraw from the contract or demand a reduction in payment. The customer is only entitled to claims to compensation for damages in the degree described in Number XI. The right to withdraw and any claims to compensation for damages are excluded if there is only an insignificant defect.

## **X. Online-Services, Use of Databases**

1. Use of databases and online services proceeds- if not otherwise agreed-by means of remote data transfer. To this end, the customer will be issued access data. The access data will be issued only to natural persons. If several persons from the customer's company have access authorisation, each authorised user will receive personalized access data. The transfer of the access data or making them available to third parties-even inside the customer's own company- is not permitted. The customer is obligated to keep the access data and passwords secret and prevent unauthorised use by third parties. The customer will insure that all of these rules are observed by all users and is liable for their violations. If the customer becomes aware of misuse of access data, the customer must inform the provider immediately.

2. The customer is responsible for providing the technical preconditions for successful online access at its place of business. This applies namely to the software and hardware used as well as the required internet connection and browser software. On request, we will inform the customer concerning the requirements of the current state of the technology. The customer is obligated to adapt

the technical preconditions present at its place of business to the general technical development.

3. The online services owed to the customer are available to the customer in the contractually agreed-upon scope. In absence of a contractual agreement, access is available 7 days a week, 24 hours a day. The customer's demand on availability restricted to 95 % of the agreed-upon usage time. In the calculation of availability, loss of use remains out of consideration that is the result of power cuts, disruptions of the data transmission network or other cases attributable to force majeur that lie beyond our ability to influence.

4. We reserve the right to change, replace, update and appropriately reduce or expand the content of our online-services. Should an expansion exceed the contractually agreed-upon content, this does not provide a basis for any legal claim by the customer unless this is expressly contractually arranged. If a reduction or change is carried out that leads to a significant change in the contractually agreed-upon use content or causes the customer's interest in the service to cease, the customer is entitled to cancellation without notice within a period of two weeks from the recognition of the reduction or change. .

5. The customer receives a simple use right to the contents of our online-services, limited to the duration of the use contract and not transferrable to third parties. The customer may only use downloaded contents in the framework of the use contract and only for its own business-related purposes. Any commercial sharing going beyond this is impermissible. Archiving and storing downloaded content is only allowed in a limited scope, which may not exceed 10% of the total quantity of downloaded data.

6. If the online-service or the database does not conform to the contractually agreed-upon constitution or if the availability is not guaranteed in the degree granted according to Number 3, the customer must grant us in writing a reasonable period to re-establish the contractually owed conditions. Starting from the date of receipt of this communication, the customer is entitled to reduce the contractually agreed-upon compensation by an appropriate degree.

7. The rules governing work and service contracts in accord with VII. Number 1 and 2 apply correspondingly to the extent that nothing else proceeds from this section.

## **XI. Liability**

1. We are liable for compensation for damages exclusively under terms of the following rules:

We are only liable

- ▶ for intentional and grossly negligent conduct,
- ▶ for any culpable breach of essential contractual obligations, in the acceptance of a guarantee of characteristics, in the case of default as well as in case in which the claim to performance is excluded for reasons for which we are responsible under § 275 BGB or the we can refuse performance.

In cases of simple negligence, the amount of our required compensation to companies is limited to compensation for foreseeable damages typical for contracts of this type. Additionally, in cases of simple negligence, liability for property damage and loss of assets is excluded.

2. Liability for personal injury or harm to life, limb or health is unaffected by the liability rules given above.

3. To the extent that our liability to compensate for damages is excluded or restricted according to the rules above, this also extends to the personal liability of our organs, employees and other co-workers, representatives and even temporary employees and also applies to all claims deriving from impermissible acts (§§ 623 ff. BGB [German Civil Code]), not, however, to claims falling under §§ 1, 4 ProdHaftG [Product Liability Act].

4. We are only liable for the re-constitution of data if the customer has determined with certainty that these data can be reconstructed from other data material with reasonable effort. The customer is especially obligated to secure data and programs in an adequately useable form regularly, at least once per day, in machine readable form and thus guarantee that these data can be restored with reasonable effort.

## **XII. Statute of Limitations**

1. Claims against companies deriving from a product defect expire one year after the start of the legally mandated statute of limitations. Excluded from this are such defects for which the legally mandated statute of limitations is 5 years or longer.

2. Other contractual or criminal claims by the customer owing to breaches of contract expire insofar as this customer is an entrepreneur, in one year from the start of the legally mandated statute of limitations.

3. The legally mandated statutes of limitations remain unaffected by the rules above in the following cases:

- ▶ damages owing to injury to life, limb or health;
- ▶ for other damages that derive from intentional or grossly negligent breach of contract by us, our legal representatives or our auxiliary persons;
- ▶ for the customer's right to withdraw from the contract in the case of a breach of contract by us that does not consist in a defect in the purchased object or work;
- ▶ for claims resting on malicious concealment of a defect or from a guarantee of characteristics in the sense of § 444 or § 639 BGB [German Civil Code];
- ▶ for claims to compensation for expenses in accord with § 478 Para. 2 BGB [German Civil Code].

**XIII. Applicable Law, Place of Fulfilment, Court of Jurisdiction, Miscellaneous**

1. German law applies exclusively under exclusion of UN Convention on the International Sale of Goods.
2. The place of fulfilment for all mutual transactions is Saarbrücken.
3. To the extent that the customer is a merchant, Saarbrücken is agreed upon as the court of jurisdiction. We are however entitled to bring legal complaints against the customer at its general court of jurisdiction. The agreed-upon court of jurisdiction also applies if the customer has no domestic court of jurisdiction or the customer's residence or habitual domicile is moved abroad after the contract is concluded. In the case of cross-border transactions, Saarbrücken is the exclusive court of jurisdiction for all disputes arising from the contractual relationship.
4. Cession or pledging claims to which the customer is entitled under the business relationship is excluded. § 354a HGB [German Commercial Code] remains unaffected by this.
  
5. The business relationship with our company may only be mentioned by the customer in its presentations—whether in the intranet, paper form, or otherwise—on condition of prior written consent. The customer is obligated to pay compensation for damages if this principle is violated.

**XIV. Data Protection, Confidentiality**

1. We state here that we can store and process personal data under due and proper consideration of the legal applicable provisions and in connection with business transactions. This is deemed notice in the sense of § 33 BDSG.
2. The contract partners are obligated to treat as confidential business secrets all not public, commercial and technical details that become known to them through the business relationship. The customer may not advertise using its business relationship with us without our prior written permission.
3. If documents are sent electronically, we must point out that this form of transmission is not secure. Compliance with confidentiality is not assured in this form of communication.

**XV. Severability Clause**

Should individual provisions of this contract or these general terms and conditions be or become unenforceable, this does not affect the enforceability of the remaining provisions. Rules shall take the place of the unenforceable provisions that most closely approximate the financial purpose of the contract and the reasonable preservation of the mutual interests of both parties.