

General Terms and Conditions for Delivery and Installation

1 Application of General Terms and Conditions; Conclusion of Contract

- 1.1** The following general terms and conditions shall apply on an exclusive basis; terms and conditions of the Customer which conflict with or diverge from the present general terms and conditions shall not be recognised by ourselves except where we have explicitly consented to their application in writing. The present general terms and conditions shall also apply where we effect delivery to the Customer without reservation in the knowledge of general business terms and conditions of the Customer which conflict with or diverge from our present terms and conditions. Our general terms and conditions for delivery and installation shall apply in the version currently valid on conclusion of the contract.
- 1.2** Unless provided otherwise, our quotations shall be without engagement. Where the Customer offers to conclude a contract, we may accept same within two weeks. A contract shall only come into being with the issue of our written order confirmation; the conclusion of a contract may only be effected on our part by a legal representative or holder of commercial procurement.
- 1.3** All agreements concluded between ourselves and the Customer for the purpose of performance of such a contract are laid down in said contract. Subsidiary agreements and amendments to the contract or the present terms and conditions may only be agreed by our legal representatives, holders of commercial procurement or specially authorised employees whose names have previously been given to the Customer. If subsidiary agreements or amendments are agreed by other employees, same shall only take effect where confirmed by our legal representatives, holders of commercial procurement or a specially authorised employee.
- 1.4** Documents submitted by ourselves in conjunction with a quotation and information provided therein, such as diagrams, drawings, weights and dimensions, shall only have binding effect where we explicitly list same as forming part of the contract or make explicit reference to same.
- 1.5** We reserve our title and copyright to all information and documents submitted (e.g. samples, cost estimates, drawings, documentation) – including in electronic form. They may not be made accessible to third parties without our prior written consent.
- 1.6** Where the written form is provided for communications from one contracting party to the other contracting party, this may be replaced by fax or communications in electronic form according to § 126a German Civil Code (*BGB*), or text form according to § 126b German Civil Code (*BGB*). This shall also apply to amendments and/or additions to contractual agreements where the written form is agreed for same.
- 1.7** These provisions shall only apply vis-à-vis entrepreneurs (§ 310 para. 1 German Civil Code (*BGB*)).

2 Prices and Payment

- 2.1** Unless provided otherwise, our prices shall apply ex works not including packaging and turnover tax at the statutory rate applicable in each case. The costs of shipment shall be borne by the Customer.
- 2.2** In the case of deliveries and / or services performed within the European Union, the Customer shall state his turnover tax identification number as proof of his exemption from turnover tax in good time prior to the contractually agreed delivery date. Where timely and full notification is not received, we reserve the right to charge the turnover tax applicable in each case.
- 2.3** In the case of deliveries destined for subsequent shipment to end users outside the European Union, we are entitled to subsequently charge the statutory turnover tax where the Customer fails to send us proof of exportation within one month after each shipment.
- 2.4** Unless agreed otherwise, the Customer shall effect payment as follows:

For deliveries consisting solely of materials: 100% of the contract value on delivery (hand-over)

For deliveries of materials associated with installation services: 90% of the contract value on delivery (handover), 10% on acceptance

Payment shall be effected, without any deduction, to one of our accounts within 30 days after invoicing.

- 2.5 Installation and commissioning work, repairs, and other services shall be charged at the cost rates applicable on conclusion of the contract, which are available from us. Time spent travelling and waiting shall count as work time. The current cost rates shall form part of this contract. The stated surcharges shall apply to work performed outside normal working hours.
- 2.6 In the event that a repair is not ordered by the Customer after receipt of our quotation, the applicable flat charge for the defect analysis already performed by us shall be invoiced.
- 2.7 The Customer may only offset counterclaims or exercise a right of retention with regard to claims which are undisputed or recognised by declaratory judgement on the merits and in terms of amount. The defence of non-performance of the contract shall remain unaffected.
- 2.8 Payments by the Customer shall become due on receipt of the respective invoice.

3 Delivery and Bearing of Risk

- 3.1 Unless agreed otherwise, we shall effect delivery to the Customer by handover of the ordered components (delivery items) at our premises. If same are to be shipped to another location at the Customer's request, the associated costs (in particular for shipment, additional packaging, and insurance) shall be borne by the Customer. We undertake to obtain insurances required by the Customer at his expense.
- 3.2 The risk of accidental perishing or accidental deterioration of the delivery items shall pass to the Customer upon handover to the Customer or - in the case of shipment to another location - upon handover to the shipper. This shall also apply where we effect shipment using our own staff or persons commissioned by ourselves in agreement with the Customer.
- 3.3 Where delivery (handover to the Customer or to the Shipper respectively) is either delayed or fails to take place due to circumstances for which neither ourselves nor the Customer are to blame, the risk of accidental perishing or accidental deterioration respectively shall pass to the Customer.
- 3.4 Where the Customer has failed to take delivery when tendered, the risk of accidental perishing or accidental deterioration respectively shall pass to same. This shall also apply, on the originally agreed delivery date, where it is not possible to observe said period due to an act of cooperation not performed by a third party employed by same.
- 3.5 We shall be entitled to effect partial deliveries where this is not unacceptable for the Customer. In the event of reasonable partial deliveries, the foregoing provisions governing the transfer of risk shall apply mutatis mutandis to each partial delivery.
- 3.6 The Customer shall be obliged to take delivery of the delivery items. The Customer may not refuse to take delivery in the case of immaterial defects. His rights shall remain unaffected thereby in other respects.

4 Reservation of Title

- 4.1 The title to the delivery items shall only pass to the Customer following the full payment of same. In so far as the validity of the reservation of title is associated with special prerequisites or special formal requirements in the country of destination, the Customer shall ensure compliance with same.
- 4.2 The Customer may not pledge or assign the delivery items by way of security prior to the transfer of title. In the event of attachment and seizure or other disposal by third parties, the Customer shall make reference to our title and notify us without delay (all costs incurred in such cases to safeguard our rights shall be borne by the Customer).

4.3 The Customer shall be entitled under the following conditions to resell the delivery items subject to reservation of title in the ordinary course of business. Where the third-party purchaser fails to immediately pay for the delivery items in full, the Customer assigns all claims ensuing from resale or other legal grounds to ourselves upon conclusion of the contract. Where co-ownership comes into being according to section 4.4, assignment shall only encompass the part of the claim corresponding to our co-ownership. Such entitlement to resale shall lapse with default in payment on the part of the Customer.

The Customer shall also remain authorised to collect claims assigned to ourselves following assignment as long as he complies with his payment obligations vis-à-vis ourselves in accordance with the contract. We may request at any time that the Customer notify us of the assigned claims and the parties liable in this regard. In such cases the Customer shall provide us with all information necessary for collection, hand over the documents required for this purpose and notify the party liable of assignment.

4.4 The processing of goods subject to reservation of title shall be performed for ourselves by the Customer in all cases. Where our goods are mixed, combined or processed with other chattels to form a single item and where the other item can be seen as the main item, it shall be deemed to have been agreed that the Customer assigns his title to ourselves on a pro-rata basis as far as he owns the main item. The Customer shall keep safe the title or co-ownership for ourselves. As regards the item resulting from mixing, combining or processing, the same as for the goods subject to reservation of title shall apply in other respects.

4.5 In the event of action on the part of the Customer contrary to the terms of the contract, in particular where the Customer is in default of payment for more than four weeks, we shall be entitled to take back the goods subject to reservation of title even without withdrawal from the contract. The Customer shall be obliged to surrender the goods. Statutory rights of withdrawal due to default in payment shall remain unaffected thereby.

4.6 An application for the institution of insolvency proceedings against the assets of the Customer shall entitle us to withdraw from the contract and to immediately request return of the delivery items.

4.7 Where the Customer maintains his registered office in the Federal Republic of Germany, the following shall additionally apply:

4.7.1 In deviation from section 4.1 we reserve title to the delivery items until all our claims against the Customer from the current business relationship have been settled.

4.7.2 We undertake to release the security owing to ourselves if and to the extent that the invoice value of same exceeds our outstanding (residual) claims by more than 10% not merely on a temporary basis.

5 Performance Period

5.1 Compliance with the agreed performance period shall be subject to the clarification of all technical queries between ourselves and the Customer and the rendering of all necessary acts of cooperation by the Customer in good time. Where this is not the case, the performance period shall be extended by a period of time of reasonable length. This shall not apply where we are responsible for the failure to clarify technical queries.

5.2 Compliance with the performance period shall be subject to the reservation of proper and timely delivery to ourselves. We shall provide notification as regards delays which become apparent. In such cases the performance period shall be extended by a period of time of reasonable length.

5.3 Performance of the contract by ourselves in respect of delivery items covered by state export regulations shall be subject to the reservation that we are issued with the necessary approvals.

The performance period has been observed where the notice of readiness for performance has been issued prior to its expiry. Where a performance period associated with installation / commissioning and the performance of an acceptance procedure has been contractually agreed, the performance period has been observed where the notice of readiness for acceptance has been issued prior to the date stipulated in the contract.

5.4 Where failure to comply with the agreed performance period can be attributed to Acts of God, industrial action, delay in the receipt of official approvals or other events outside our control, the performance period shall be extended by a period of time of reasonable length. This shall also apply should we be in default with the rendering of our performance. We shall provide notification as regards delays which become apparent.

- 5.5** Where the delivery or the acceptance of the delivery items are delayed for reasons for which the Customer is responsible, he shall be charged the costs resulting from such delay. The right to assert further claims for compensation is reserved.
- 5.6** After having granted a period of time of reasonable length for delivery or acceptance of the delivery items and following fruitless expiry of same we reserve the right to dispose of the delivery items elsewhere. We reserve all rights, i.e. including those going beyond the above, in accordance with § 373 German Commercial Code (*HGB*).

6 Acceptance Procedure

- 6.1** Where the execution of an acceptance procedure has been agreed upon in the contract for the materials supplied, installed and commissioned by ourselves, the following provisions shall additionally apply.
- 6.2** Acceptance shall be deemed to have taken place at the latest 4 weeks after our written notice of readiness for acceptance, unless the Customer notifies us of existing material defects in writing within said period.
- 6.3** The Customer shall only be entitled to refuse acceptance where the defect nullifies or reduces the customary and/or contractually stipulated usage of the work and/or its value to a significant extent. Where the work shows defects which do not result in any right to refuse acceptance, the acceptance shall take place subject to the reservation of rectification of defects.
- 6.4** Refusal in respect of acceptance or reservations against acceptance must be issued without delay in writing along with a description of the defect forming the subject of the notification of defect.
- 6.5** Usage of the delivery items by the Customer for production purposes shall be deemed as acceptance.

7 Impossibility of Performance prior to Transfer of Risk

- 7.1** In the event that performance becomes partially impossible prior to the transfer of risk, the Customer may only withdraw from the contract where partial performance can be proven to be of no interest to the Customer and we are responsible for said impossibility. If interest in partial performance is not ruled out, the Customer shall only be entitled to reduce the contractual price.
- 7.2** If neither contracting party is responsible for the impossibility, we shall be entitled to receive the part of the remuneration corresponding to the services already rendered by ourselves.
- 7.3** Claims of the Customer to compensation due to impossibility shall be subject to section 10. In other respects the statutory provisions shall apply.

8 Warranty in form of Remedial Action, Reduction of Price and Withdrawal due to Defects in Delivery

- 8.1** Prerequisites:
- 8.1.1** Defect claims by the Customer shall be conditional on same having complied with his obligations existing in respect of inspection and notification of defects according to § 377 German Commercial Code (*HGB*) in the proper manner. The Customer shall issue notification of defects in writing, specifying and describing the defect as precisely as possible. The risk of loss or delayed receipt of the communication shall be borne by the Customer. This same shall apply to the burden of proof as regards the proper notification of defects.
- 8.1.2** If an acceptance procedure has been contractually agreed, defects for which a check was made during the acceptance procedure may only be asserted where the Customer reserved his rights on acceptance. Where acceptance was not performed due to a lack of cooperation on the part of the Customer or other third party involved in execution of the project by the Customer (e.g. the systems engineering company), it shall not be permitted to assert defects for which a check was to be made by the acceptance procedure .

8.2 Content of warranty claims

- 8.2.1** Where a blameful defect is present, we shall at our discretion supply an item free of all defects or eliminate said defects (remedial action). We shall be entitled in this regard to make up to three attempts at rectification except where the Customer cannot reasonably be expected to consent to a second or third attempt at rectification. We shall reserve the title to parts exchanged in a replacement procedure.
- 8.2.2** The Customer shall grant us a period of time of reasonable length for remedial action. Where we are not given the opportunity for remedial action, we shall not be liable for the ensuing consequences. In this case other claims on the part of the Customer (reduction of price, withdrawal, compensation) shall be excluded.
- 8.2.3** In urgent cases endangering operational safety, to guard against disproportionately extensive damage or in other cases where it is unacceptable for the Customer to consent to remedial action by ourselves, the Customer shall have the right to rectify the defect himself or arrange for rectification by third parties. Where such prerequisites exist, the Customer shall notify us in writing and enable us to make an examination of the specified prerequisites.
- 8.2.4** Where the cost necessary for rectification is increased, in particular by failure of the Customer to observe his obligation in respect of damage avoidance or damage limitation, the Customer shall reimburse us for the increased expenditure caused by himself.
- 8.2.5** The entitlement of the Customer to compensation due to a defect (compensation in lieu of performance; compensation in addition to performance) shall be subject to section 9.

8.3 Special provisions in the event of infringement of property rights and copyright

- 8.3.1** Where usage of the delivery items results in the infringement of property rights or copyright within twelve months from the transfer of risk, we shall in all cases procure for the Customer the right to further use, modify the delivery items in such a manner or supply a new item so that the infringement of property rights or copyright no longer exists.

Where this is not possible under economically reasonable conditions or within a period of time of reasonable length, the parties shall be entitled to effect withdrawal.

Within twelve months from the transfer of risk we shall indemnify the Customer from claims of the respective holder of the property rights concerned which have been recognised by declaratory judgement or acknowledged unless we are not responsible for the infringement of the property rights. We shall only be bound by an acknowledgement on the part of the Customer where this was made with our prior consent. Where we are not in agreement with acknowledgement, we shall reimburse the Customer for the necessary costs incurred for legal action.

- 8.3.2** Claims according to item 8.3.1 due to the infringement of property rights or copyright shall only exist where
- the Customer notifies us in writing without delay, specifying and describing the infringement of property rights or copyright asserted;
 - the Customer provides us with assistance in warding off the claims asserted to an appropriate extent or allows us to carry out necessary modifications;
 - we reserve the rights to all action in warding off claims including out-of-court settlement; in the case of an out-of-court agreement we shall take account of the rightful interests of the Customer;
 - the infringement of property rights or copyright is not based on an instruction or specification of the Customer;
 - the infringement of property rights or copyright has not been caused by the Customer's having modified the delivery item without authorisation or having employed it in a manner which does not comply with the terms of the contract.

- 8.3.3** The obligations specified in section 9.3 shall be final as regards instances of the infringement of property rights or copyright. The claims to compensation specified in section 10 shall remain unaffected thereby.

9 Liability for Compensation

9.1 Liability for major breaches of contract (breach of cardinal obligations)

In the event of any breach of major contractual obligations we shall be liable for compensation according to the statutory provisions. An entitlement to compensation in lieu of performance shall however only exist where remedial action has failed.

Where liability is based on slight negligence, it shall be limited to contractually typical damage which can be reasonably foreseen. The same shall apply to liability for gross negligence.

9.2 We shall be liable without restrictions for any culpable injury to life, limb or health according to the statutory provisions. This shall also apply to mandatory liability in accordance with the Product Liability Act.

9.3 In all other cases, on whatever legal grounds (e.g. tort, fault in contract negotiations, breach of contractual secondary obligations, default, etc.), the Customer shall only be entitled to compensation in the case of intent or gross negligence. The liability for gross negligence shall however be limited to contractually typical damage which can be reasonably foreseen.

9.4 Our liability for the destruction of data shall be limited to the costs necessary for their reconstruction had proper backup of such data been performed by the Customer.

9.5 There shall exist no liability as regards defects and the consequences of defects in relation to which the Customer failed to comply with his obligations according to § 377 German Commercial Code (*HGB*) or to which he made no reservation of rights at acceptance.

9.6 Where liability for compensation vis-à-vis ourselves is precluded or limited, this shall also apply as regards the personal liability for compensation of our employees, workers, staff, representatives and agents.

9.7 Where the entitlement to compensation in lieu of performance is precluded or limited by the above provisions, this shall also apply to compensation for futile expenses.

10 Defect Claims regarding the Sale of Used Goods

For the sale of used goods, defect claims (withdrawal, reduction of purchase price, compensation, reimbursement of expenses) shall be excluded, as far as liability is not mandatory under statutory provisions.

11 Special Provisions for Software of Other Suppliers

11.1 As regards software products of other suppliers included in our scope of supply, their General Terms and Conditions of Business shall prevail. Should same not be available, we shall arrange for their dispatch to the Customer on request.

11.2 Sections 11.3 and 11.4 shall apply in addition to the general terms and conditions of the software supplier. In the event of invalidity of the general terms and conditions of the software supplier, our terms and conditions ("General Terms for the Use of Perceptron Software") shall apply in addition to sections 11.3 and 11.4.

11.3 The Customer shall be granted a simple non-exclusive right of utilisation to the software products and the associated documentation on a permanent basis. The granting of sublicences shall not be permitted.

11.4 We shall definitely not be obliged to surrender the source codes forming the basis of the software product.

12 Limitation

12.1 Claims of the Customer due to a defect shall become statute-barred after 24 months from delivery.

12.2 Claims for compensation which are not based on a defect shall become statute-barred at the latest after twelve months from same becoming known. However, in the case of fraudulent action or intent the statutory regulations in respect of limitation shall apply.

12.3 All other claims of the Customer shall become statute-barred at the latest twelve months after same came into being and became or should have become known. In other respects the statutory provisions shall apply.

13 Special Provisions for Installation and Commissioning Work, Repairs and Other Services

The following shall additionally apply to installation and commissioning work, repairs and other services:

- 13.1** The Customer shall instruct our staff about existing safety regulations and risks at his expense and take all measures necessary for the protection of persons and property at the place of work.
- 13.2** The Customer shall aid our staff in the performance of the work to the necessary extent at his expense and render all necessary assistance, such as preparation of the building site, provision of tools and hoists, supply of water and electricity, etc.
- 13.3** The assistance rendered by the Customer must ensure that we can commence our work immediately after the arrival of our staff and perform same without delay until acceptance. Where the Customer fails to comply with his duties, we shall be entitled, albeit not obliged, to perform the actions incumbent on the Customer in his place and at his expense.
- 13.4** Where we are unable to render performance either partially or entirely for reasons for which we are not responsible, we shall be remunerated by the Customer for services already rendered by ourselves according to the contractual work rates, and reimbursed by the Customer for expenditure incurred. This shall in particular apply to time spent waiting for which we are not responsible.
- 13.5** Parts exchanged in a replacement procedure shall become our property.
- 13.6** Where the performance has perished or experienced deterioration prior to acceptance without any fault on our part, the Customer shall reimburse us for the price less any saved expense.
- 13.7** Where the necessary duration of a repair cannot be assessed until after detailed examination, only repair periods confirmed by ourselves in writing shall be binding. Binding information as regards repair periods can only be provided by our legal representatives, holders of commercial procurement and specially authorised employees whose names have previously been given to the Customer by ourselves for this purpose. Where corresponding information is provided by other employees, this shall only be binding where confirmed by our legal representatives, holders of commercial procurement or specially authorised employees.
- 13.8** The Customer shall only be entitled to withdraw from the contract due to delayed or defective performance where the installation and commissioning work, repairs and other services can be proven to be of no interest to the Customer despite reduction of the remuneration. Section 10 shall apply to claims for compensation.

14 General Terms

- 14.1** All taxes, fees and dues associated with performance outside the Federal Republic of Germany shall be borne by the Customer and, where applicable, be refunded to ourselves.
- 14.2** The Customer shall obtain the approvals and/or export and import documents necessary for his use of the products at his expense.
- 14.3** The place of performance for obligations of the Customer vis-à-vis ourselves shall be Munich, Germany.

15 Severability

- 15.1** Should individual terms of the present terms and conditions or terms of the contract be or become invalid either partly or in their entirety, the other terms and conditions shall remain unaffected thereby.