

General Terms and Conditions for Deliveries and Services of M.TEC ENGINEERING GmbH

I. General, scope

1. These General Terms and Conditions ("GTC") apply to all of our deliveries and services for all of the duties arising from an obligation with the customer.
2. Deviating, contradictory or supplementary general terms and conditions of the customer shall only become an integral part of the contract, if and insofar as we have explicitly consented to their validity. These GTC shall also apply exclusively, if we provide/execute the service or delivery to the customer unreservedly, in spite of conflicting, contradictory or supplementary terms and conditions of the customer.
3. These GTC are only valid vis-à-vis entrepreneurs within the meaning of Section 14 BGB [German Civil Code], public-law legal entities and special public-law funds. They are not applicable vis-à-vis consumers in accordance with Section 13 BGB [German Civil Code]. They are an integral part of any contract concluded between us and the respective customer, unless expressly agreed otherwise in an individual case. They also apply to all future transactions with the customer, even if reference is not expressly made to these GTC.
4. All agreements reached between us and the customer for the purpose of order execution are put into writing in the order confirmations and these GTC, unless expressly agreed otherwise in writing.

II. Conclusion of contract/changes to the contract

1. Our offers are subject to confirmation. A contract shall only be concluded with us, if the customer accepts our offer without reservations or he receives our written order confirmation or we begin with the execution of the delivery or service. If we issue a written order confirmation, this shall be decisive for the content and scope of the contract, unless explicitly agreed otherwise.
2. Changes, side agreements and amendments, as well as possible condition agreements or the acceptance of guarantees, require an explicit written agreement in order to be valid.

III. Order execution

1. Unless expressly agreed otherwise, the delivery or service subject matter must only show the characteristics, technical data etc., which are explicitly laid down contractually; these shall only constitute guarantee acceptances, if we explicitly declare our intention to vouch for these, or if they are explicitly referred to as such by us; guarantee declarations must be issued in written form in order to be valid. We reserve the right to implement technical and design deviations from descriptions and details in our brochures, catalogues or similar sales documentation

- and replace (sub-)products with technically equivalent or better items, without the customer being able to derive any rights against us from this. Such descriptions and details, as well as advertising statements (also from the manufacturer) do not contain any guarantee declarations. Unless statutory provisions stipulate otherwise, we only owe advisory if it has been accepted by us as a contractual main obligation.
2. Unless explicitly agreed otherwise, for the delivery of software, updates and upgrades of software do not belong to the scope of delivery and the source code and documentation will remain with us.
3. The customer must inform us about all of the relevant circumstances for the execution of our delivery and/or service. We are not obligated to examine data, information or other services provided by the customer for their completeness and accuracy, provided that no reason exists for this, in consideration of the respective circumstances of the individual case or the examination obligation has not been explicitly accepted as a contractual obligation. Insofar as work is performed with the customer, our employees shall be provided with the appropriate workplaces and required work equipment free of charge.
4. If we take action outside of our company premises, the customer shall be responsible for all necessary measures to ensure public safety, unless the nature of the matter or an agreement with the customer specify otherwise. We are authorised to refuse the execution of our delivery and/or service, as long as the necessary measures are not affected.
5. Irrespective of our continuing responsibility for the fulfilment of contractually owed services, we are unreservedly authorised to bring in third parties for the fulfilment of the contract. Insofar as employees, whose assignment has been contractually agreed, are impeded due to reasons which are beyond our control, we will be permitted to replace them with different suitable employees.

IV. Cooperation duties of the customer for development, production and advisory services

1. In development projects, success usually requires a close cooperation between the customer and us. The contracting parties are therefore obligated to exercise mutual respect, provide comprehensive and immediate information and a precautionary warning about risks and protect against disrupting influences, also from third parties.
2. As a material contractual duty, the customer agrees to ensure that all of the agreed obligations to cooperate and contribute items will be provided in the necessary quality and by the deadlines that are agreed or required for project realisation, without additional costs for us. Where it is necessary for the success of the project, he shall specifically provide his own personnel in a sufficient number, as well as qualified contact persons for the entire term of the project. Insofar as requirements for external systems are for-

mulated in the technical specification or elsewhere, which are operated by the customer or by third parties, the customer shall guarantee to us that these requirements will be fulfilled.

3. If the customer's information or documentation turn out to be flawed, incomplete, unclear or objectively infeasible, he will immediately make the necessary corrections and/or amendments after receiving our notification. The customer will immediately eliminate, or arrange for the elimination of, defects or malfunctions, which we have notified regarding the services and components provided.

V. Rights of use

1. For the delivery of results developed as part of the customer order (for example, concepts, design drawings, software or similar), unless it is explicitly, contractually agreed otherwise, the customer will be granted a basic, i.e. non-exclusive right of use to the results. The structure of the right of use is based on the respective contractual agreement, with respect to time, place and content. If the contracting parties have not concluded an explicit contractual agreement, the scope for the granting of rights to the customer shall be based on the respective purpose of the contract. This means that the rights will be granted to the customer to the extent necessary for proper execution of the contract; Section 31 Para. 5 UrhG [German Copyright Act] applies accordingly.
2. If we have not developed the work results, we will usually only arrange a contract with the third-party vendor. Therefore, the customer acknowledges the third-party manufacturer's delivered terms and conditions of use, which we explicitly refer to; these are solely decisive for the scope of rights granted by the third-party vendor.
3. Irrespective of the scope of rights granted, the rights of ownership and use of the work results, which we have produced, will only transfer to the customer with the full payment for the total order, in any case.
4. The customer undertakes to only use the services provided by us if he is authorised to do so according to Clauses V.1 to V.3 above, in conjunction with the respective contractual agreement. It makes no difference, whether the service provided by us in an individual case is subject to legal protection by the German Copyright Act or other protection acts.
5. The onward transfer of granted rights of use to third parties and/or multiple uses, as well as the granting sub-licences, is subject to compensation and requires our prior written consent, unless contractually agreed otherwise.

VI. Deadlines and dates

1. A timetable and milestones in a project have the purpose of orientation in the project schedule. Dates exclusively have a binding character, if they are explicitly agreed as binding dates; this agreement must occur in written form, in order to be valid. If no bin-

ding deadlines and dates have been agreed with us in this respect, we will only enter into default, if the customer has previously set an appropriate grace period for us inconclusively, to provide the owed delivery or service. In any case, deadlines will only expire from the full provision of all cooperation actions owed by the customer, as well as any deposit payment received, with effect from receipt. Subsequent change requests or acts of cooperation by the customer, which have been provided late, will extend the delivery periods accordingly.

2. If the delivery or service owed by us is delayed or significantly impeded due to unforeseeable circumstances, which are beyond our control (e.g. labour disputes, operational disruptions, transport impediments, raw material shortages, official measures - each also with our upstream suppliers - as well as non-timely self-supply), the agreed delivery periods will be extended by the duration of the impediment plus an appropriate lead time. The delivery periods will extend in the same way, if we have concluded a congruent cover transaction and we have not been supplied by our supplier at all, not completely or not on time, through no fault on our part, and it would be impossible or unreasonable for us to source the goods elsewhere. If the impediment lasts for longer than two months, both sides will be entitled to withdrawal with respect to the unfulfilled part of the contract. In the event that the delivery period is extended or a release from the delivery obligation according to this provision, the customer cannot demand any compensation for damages in this respect.
3. If the customer entirely or partly fails to fulfil his cooperation, participation or contribution obligations, performance dates affected by this will lose their bindingness and we will specifically not enter into default. After an unsuccessful reminder, we are entitled to demand the damages that we incur, including possible additional expenses. In this case, the risk of accidental loss or accidental deterioration of the delivery item will also transfer to the customer at such a time when he enters into default. If the customer also fails to fulfil his cooperation, participation or contribution obligations within an appropriate grace period following a further reminder, we are furthermore obligated to cancel the contract without notice. In this case, we shall be entitled to compensation and remuneration claims, in the amount derived from law; further claims on our part remain unaffected. We shall be entitled to the same right in the event that we can no longer execute the order within an adequate time period or only at significantly higher costs, as a consequence of the delay, which has occurred, for example, due to other obligations.
4. If we enter into default for reasons attributable to us, or if our performance obligation is ruled out due to impossibility in accordance with Section 275 Para. 1 BGB [German Civil Code] or we can refuse performance in accordance with Section 275 Para. 2 and 3 BGB [German Civil Code], we shall exclusively be liable in accordance with the statutory provisions,

subject to the limitations of liability in Clause XI. of these GTC.

VII. Transfer of risk

1. The risk of accidental loss or accidental deterioration of the delivery item will also transfer to the customer upon dispatch, if we have accepted the shipping costs or other additional services or if a partial delivery occurs. Reference is made to VI.3. Sentence 3 of these terms and conditions. If an acceptance inspection is agreed or legally required, this is definitive for the transfer of risk. If the customer is in acceptance default, this is equivalent to a handover/acceptance inspection.

VIII. Acceptance inspection

1. If our services require an acceptance inspection, the customer is obligated to do so upon readiness for acceptance. The acceptance cannot be refused in the case of only insignificant defects, without prejudice to any of the customer's existing claims for defects.
2. The acceptance shall be deemed to be granted, if the customer refuses to declare acceptance in violation of Clause 1 above or in spite of a timely request, refuses to cooperate in a joint acceptance inspection; or the customer has not immediately declared acceptance in written form after conducting a joint acceptance inspection, although the service is ready for acceptance and he has been requested by us to do so with a notice period of seven working days, unless the customer specifies the defects, on the basis of which he refuses acceptance, within this time limit in written form, whereby we will again inform the customer about the envisaged meaning of his behaviour when the time limit begins.
3. For self-contained partial services, we are entitled to partial acceptance inspections.
4. Intellectual services are deemed to be accepted, if the customer fails to explicitly issue written reservations indicating concrete defects within 30 days after their receipt, whereby we will inform the customer again about the envisaged meaning of his behaviour again when the time limit starts. In the case of such a reservation, we will check our service. If a reservation by the customer turns out to be unjustified, he shall bear the costs incurred, unless he is only guilty of slight negligence.

IX. Prices and payments

1. The prices quoted by us are decisive. Unless expressly stipulated otherwise, all prices are stated net without value-added tax at the applicable statutory rate. Unless agreed otherwise, in addition to the agreed remuneration, we are entitled to the reimbursement of out-of-pocket expenses.
2. If remuneration is agreed on the basis of hourly or daily rates, subject to an individual agreement to the

contrary, our respective current price lists at the time of service provision shall apply. No price increase will take place for services, which are provided within four months after conclusion of the contract.

3. Our invoices are payable without any deductions according to the agreed payment schedule or, in the absence of such, within 14 working days after invoicing. If cheques are accepted in an individual case, on the basis of explicit agreements, this will only occur on account of performance and also without any deductions. Possible discount fees shall be borne by the customer, we will only recognise cheque payments as fulfilment, if the respective amounts have been unreservedly credited to our account. We reserve the right to demand appropriate instalment payments and advances.
4. If we are entitled to multiple claims vis-à-vis the customer, we will stipulate which obligation the payment will be applied to.
5. The customer shall only be entitled to rights of set-off and retention, if his counterclaim is established as final and absolute by a court of law. In the case of delivery or performance defects, the customer's counter-rights shall remain unaffected, particularly in accordance with Clause X. 4 of these GTC. Furthermore, he is only entitled to exercise a right of retention to the extent that his counterclaim is based on the same contractual relationship.
6. If it becomes apparent after conclusion of the contract that the customer cannot fulfil his payment obligations upon maturity, we are only entitled to execute deliveries or services that are still outstanding in return for an advance payment or a security deposit and withdraw from the contract after a time limit, which has been set for this, has elapsed fruitlessly; Clause VI. 3. of these GTC shall apply accordingly. In these cases, we are also authorised to revoke payment periods, which have been granted. If bills of exchange are running with later due dates, we are entitled to demand a cash payment against return of the bills of exchange.
7. If it becomes apparent, after the conclusion of the contract (e.g. with an application for the instigation of insolvency proceedings), that our purchase price claim will be at risk due to deficient performance by the customer, according to the statutory provisions, we shall be entitled to refuse performance and - after setting a deadline, where necessary - also entitled to withdrawal in accordance with Section 321 BGB [German Civil Code]. In the case of custom-made products, we can declare the withdrawal immediately; the statutory provisions regarding the dispensability of setting a deadline remain unaffected.

X. Claims for defects

1. The statutory provisions apply to the rights of the customer for material and legal defects, unless specified otherwise below. In all cases, the statutory special provisions remain unaffected for final deliver of the unprocessed goods to a consumer, even if he

- has processed them (supplier recourse in accordance with Section 478 BGB [German Civil Code]). Claims from supplier recourse are excluded, if the defective goods have been processed by the customer or another entrepreneur, e.g. by installing it into another product.
2. The customer's defect claims require that he has fulfilled his statutory inspection and complaint duties (Section 377, 381 HGB [German Commercial Code]). If a defect becomes evident during the delivery, inspection or at a later time, we must be notified immediately in written form. In any case, obvious defects, such as missing components or documentation material, as well as readily identifiable damage must be notified in written form within one week after receipt of the delivery and defects that have not been identified during the inspection, within the same time limit from discovery. If the customer omits the proper inspection and/or notification of defects, our liability for the defects, which are not notified at all or not on time or not properly will be excluded in accordance with the statutory provisions.
 3. Claims for defects must be asserted by the customer in written form, indicating all identified defects and specifying the circumstances, under which these have been presented. A defect does not exist, if a fault claimed by the customer cannot be reproduced. If the customer has made interventions in the delivered components, hardware or software, the customer's claims for defects only exist, if he can prove that his intervention was not the cause of the defect.
 4. If the delivery or service is defective, we can initially choose whether we will provide supplementary performance by eliminating the defect (repair) or by delivering a non-defective item or providing the relevant service again (replacement delivery). Our right to refuse the supplementary performance under the legal requirements remains unaffected.
 5. We are authorised to make the owed supplementary performance dependent on the customer paying the due remuneration. However, the customer is entitled to retain an adequate part of the remuneration, which is in proportion to the defect.
 6. The customer shall provide us with the time required for the owed supplementary performance and give us the opportunity to specifically, hand over the rejected delivery for inspection purposes. In the case of replacement delivery, the customer shall return the defective item to us in accordance with the statutory provisions. The supplementary performance is neither comprised of the upgrading the defective item nor reinstallation, if we were not originally obligated to install it.
 7. We will reimburse the required expenses for the purpose of inspection and supplementary performance, particularly transport, travel, labour and material costs, as well as possible upgrading and installation costs, on the basis of the statutory provision, if a defect actually exists. Otherwise, we can demand compensation from the customer for the costs incurred due to the unauthorised request to rectify defects (particularly inspection and transport costs), unless the lack of deficiency was not identifiable for the customer.
 8. If the supplementary performance has failed or an adequate time limit to be set by the customer for supplementary performance has expired unsuccessfully or is dispensable according to the statutory provisions, the customer will be entitled to the other warranty rights over and above supplementary performance. However, no right of withdrawal exists for an insignificant defect.
 9. Claims by the customer for compensation for damages/compensation for fruitless expenses only exist on the basis of Clause XI. and are otherwise excluded.
 10. With standard products from third-party manufacturers, for which we only arrange the conclusion of a contract with the third-party manufacturer (Clause V. 2. of these GTC), the customer's claims for defects are only against the respective third-party manufacturer; this also applies to the infringement of third-party property rights by the third-party manufacturer.
- XI. Liability and withdrawal**
1. We are liable in accordance with the statutory provisions, insofar as the customer asserts a claim for compensation for damages caused maliciously or with gross negligence (including malice and gross negligence by our representatives and legal agents) or for damages from an injury to life, limb or health. Otherwise, we are also liable in the case of normal negligence in accordance with the statutory provisions, insofar as we infringe a contractual obligation, the fulfilment of which makes the execution of the contract possible at all and which the customer can generally trust in being complied with (so-called cardinal duties); in this case, our liability is limited to the typical contractual, reasonably foreseeable loss. Otherwise, our liability for damages is excluded. The liability disclaimer also applies to the personal liability of our legal representatives, employees and other legal agents. Liability in accordance with the Product Liability Act remains unaffected by this provision.
 2. We are only liable for the replacement of data, if the customer has ensured that lost data can be restored with reasonable time and effort. The customer is therefore obligated to backup data and programs in use at appropriate intervals on a regular basis.
 3. Claims for damages by the customer, regardless of the legal grounds, will expire 12 months after the customer has become aware of the circumstances underlying the claims, but no later than 3 years after the breach of duty. Grossly negligent ignorance is equivalent to awareness. This shall not apply, if the relevant claim is based on malicious conduct by us or involves a claim due to injury to life, limb or health.
 4. The customer can only withdraw or cancel due to a violation of duty that is not comprised of a defect, if we are responsible for the breach of duty. A free cancellation right by the customer (particularly in accordance with the statutory provisions) is excluded.

dance with Sections 651, 649 BGB [German Civil Code]) is excluded. Otherwise, the statutory provisions and legal consequences apply.

XII. Limitation period

1. By way of derogation from Section 438 Para. 1 No. 3 BGB [German Civil Code], the general limitation period for claims from material and legal defects is one year from delivery. If an acceptance inspection is agreed or legally required, the limitation period starts with the acceptance inspection.
2. However, if the delivery or service is a structure or an item, which has been used in accordance with its customary manner of use for a structure and has caused its defectiveness (building material), the limitation period according to the statutory provision is 5 years from delivery (Section 438 Para. 1 No. 2 BGB [German Civil Code]). Additional special regulations regarding the limitation period also remain unaffected (particularly Section 438 Para. 1 No. 1, 70 Para. 3, Sections 444, 445b71 BGB [German Civil Code]).
3. The aforementioned limitation periods of the purchase right also apply to contractual and extra-contractual claims for damages by the customer, which are based on a defect of the delivery or service, unless the application of the regular statutory limitation period (Sections 195, 199 BGB [German Civil Code]) would lead to a shorter limitation period in an individual case. However, claims for damages by the customer from injury to life, limb or health, as well as according to the Product Liability Act, expire exclusively according to the statutory limitation periods.

XIII. Reservation of ownership

1. Until the complete payment of all claims from the business relationship with the customer, all of the delivered goods will remain our sole property. The customer shall handle the reserved goods under our ownership with care and store them separately from his goods and the goods of third parties. Upon request, the customer shall provide us with all of the required information, which enables us to locate the reserved goods under our ownership, which are in his possession.
2. The customer is authorised to the onward sale of the reserved goods in the proper course of business; however, he is not permitted to make a pledge, transfer by way of security or other charge. The customer now already assigns to us, the customer's remuneration claims against his buyers from the onward sale of the reserved goods, as well as such claims, which he incurs on the basis of other legal grounds against his buyers or third parties (particularly claims from illicit acts and claims for insurance payouts), including all account balance claims from a current account, irrespective of whether the purchased object has been sold on without or after processing; we herewith accept this advance assignment. Irrespec-

- tive of the assignment, the customer is authorised to collect the claims from his buyers, until this is revoked by us. We are entitled to revoke the direct debit mandate, if the customer enters into default with his payment obligations from the business relationship with us or if we become aware of circumstances, which appear to be suitable for significantly impairing the customer's creditworthiness (e.g. application for the instigation of insolvency proceedings, cessation of payments, etc.). If the preconditions exist for revoking a direct debit mandate, the customer must immediately disclose the assigned claims against his buyers and their respective obligors, provide all of the required detailed for collecting the claims, hand over the related documentation to us and notify the obligors about the assignment. We are also personally authorised to notify the assignment to the obligor, if the aforementioned preconditions exist for the revocation of the direct debit mandate
3. Possible treatment or processing of the reserved goods shall be performed by the customer on our behalf, without any obligations arising for us from this. The customer's expectant right shall continue with respect to the altered item. If the reserved goods are processed with other items not belonging to us, we will acquire the co-ownership of the new item in the ratio of the value of the reserved goods to the other processed items at the time of processing. The same applies to the case of the reserved goods being combined or connected to other items, which do not belong to us. If the customer acquires the sole ownership of the new item, because the items belonging to him are regarded as a main item, the customer shall grant us the co-ownership of the new item in the ratio of the processed or connected or combined reserved goods. The customer shall store the new item for us free of charge. If the reserved goods are sold on together with other goods, irrespective of whether processing or combining has occurred, the advance assignment will only apply in the amount of the value of the reserved goods, which are sold on together with the other goods.
 4. If we are authorised to dispose of the reserved goods, this can also occur on the open market.
 5. We undertake to release the collateral, to which we are entitled according to the aforementioned provisions, at our own discretion upon request by the customer, insofar as the realisable value of the collateral does not exceed the claims to be secured by more than 10 %, unless it is only temporary; we have the choice of which collateral items we release.
 6. The customer shall notify us immediately about compulsory enforcement measures by third parties regarding the reserved goods or the claims assigned in advance, providing the necessary documentation for an intervention. If the third parties do not intend to compensate us for court costs or out-of-court costs incurred in this context, the customer shall be liable for this.
 7. If effective protection of our ownership of the contractual products, according to the local provisions of

the country to which the contract goods are delivered, require the existence of additional preconditions, such as a registration (our rights or a security right), it is the customer's responsibility to ascertain the legal situation, inform us accordingly and - in consultation with us - bring about the occurrence of the precondition, such as the appropriate registration in our favour.

8. If German law does not apply, contrary to Clause XI.3 and a basic reservation of ownership or the advance assignment as part of an extended reservation of ownership is inadmissible or unenforceable according to the applicable law, the customer will obtain an admissible, equivalent security right for us, according to the applicable law, such as a security interest. The subject matter and range of this security right are subject to the agreement between the parties. The customer will provide us with appropriate evidence of such a security right, which has been validly created in our favour.

XIV. Place of performance and assignment prohibition

1. The place of performance is our registered office, unless specified otherwise in the order confirmation.
2. The assignment of claims, to which the customer is entitled against us from the business relationship, is excluded. Section 354a HGB [German Commercial Code] shall remain unaffected.

XV. Legal jurisdiction and applicable law

1. If the customer is a trader within the meaning of the German Commercial Code, a public-law legal entity or a special public-law fund, the exclusive - also international - legal jurisdiction for all disputes arising directly or indirectly from the contractual relationship is our registered office in Aachen. The same applies, if the customer is an entrepreneur within the meaning of Section 14 BGB [German Civil Code]. However, in all cases, we shall also be entitled to file legal action at the place of performance of the delivery obligation in accordance with these GTC or an overriding individual agreement or at the customer's general legal jurisdiction. Overriding statutory provisions, particularly regarding exclusive responsibilities, shall remain unaffected.
2. All business relationships and the entire legal relationships between the customer and ourselves shall be governed by the law of the Federal Republic of Germany; the application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

As of: January 2020