

General Sales and Delivery Terms

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I. Scope, exclusion of purchase terms

(1.) The following term definitions apply in these terms and conditions: “**Contractor**” refers to **itp GmbH**; “**customer**” refers to a customer who issues the contractor with an order that the contractor accepts; “**goods**” refers to all of the items (devices and software) stated in the contractor’s order confirmation with the exception of services; “**device**” refers to the device stated in the contractor’s order confirmation and delivered by the contractor; “**intellectual property rights**” refers to patents, brands, design patent rights and all patent, brand and design patent registrations, copyrights or sample rights and all other similar or related rights worldwide; “**deliveries**” refers to the delivery of goods and items; “**services**” to the provision of services.”

(2.) All deliveries, services and offers by the contractor are made exclusively on the basis of these General Sales and Delivery Terms. They are part of all contracts that the contractor concludes with the buyer for the goods and services offered by it. They also apply to all future deliveries, services or offers within the framework of an ongoing business relationship even if these have not been agreed separately again.

(3.) Differing or contradictory conditions of the customer are not recognised by the contractor unless the contractor has explicitly agreed to these in writing. This form requirement can only be removed by an appropriate written agreement. Differing or contradictory conditions of the customer also do not apply if the contractor in the knowledge of terms that oppose or differ from these terms and conditions from the customer, implements the delivery and/or service to the customer without restriction.

(4.) These General Sales and Delivery Terms only apply to companies, legal entities under public law or public law special assets as defined by Section 310 Para. 1 of the German Civil Code (BGB).

II. Offer and order confirmation

(1.) In order to purchase goods via the online order form, the customer must first place them in the shopping basket and then the order must be sent. This requires registration during which the customer and shipping data are recorded. Before sending the order in a binding manner, the client receives a summary of the individual products including the prices and the total price stating the value-added tax. The order is conducted by pressing the buttons labelled “Send order”.

(2.) If the customer orders deliveries and/or services via the online order form or by email, the contractor will initially confirm receipt of the order. The receipt confirmation however does not represent binding acceptance of the order. In the event of ordering by email the order (and receipt confirmation) is processed manually.

(3.) For an order via the online order form or by email, the contract only comes into existence with the contractor’s order confirmation, delivery of the goods or provision of the service. The receipt confirmation may be associated with the order confirmation. The order confirmation contains a summary of the individual products ordered as well as the prices and total price stating the value-added tax.

(4.) For orders made by letter, fax or telephone, the contract only comes into existence with the contractor’s order confirmation, delivery of the goods or provision of the service. In general such orders are made without a separate confirmation of receipt of the order.

(5.) Additions and changes to the affected agreements including these General Sales and Delivery Terms must be in written form to be effective. With the exception of directors or authorised signatories, the contractor’s employees are not permitted to make oral agreements that vary from this. To maintain the written form, telecommunication communication is sufficient, in particular by fax or email, if the copy of the signed declaration is provided.

(6.) Information from the contractor on the subject of the delivery (e.g. weights, dimensions, utilisation values, loads, tolerances and technical data) and the depiction of these (e.g. drawings and diagrams) is only used for orientation purposes if its ability to be used for the contractually agreed purpose does not require it to match precisely. There are no guaranteed characteristic features. Normal commercial variations and variances occurring on the basis of legal regulations or technical improvements as well as the replacement of components with equivalent parts are permitted if they do not adversely affect the contractually agreed purpose.

III. Price

(1.) The prices apply to the scope of goods and services listed in the order confirmations. Additional and special services are to be charged separately. The prices of the goods are understood as ex works from the contractor's address at Rathausstr. 75-79, 66333 Völklingen ("**place of fulfilment**"), plus packaging and freight, and plus all fees, costs and taxes associated with the transportation, such as customs charges, and any transport insurance. Otherwise the contractor's head office in 66333 Völklingen is considered to be the place of fulfilment for all other services.

(2.) The prices do not include statutorily applicable value-added tax; it is shown separately on the invoice at the statutory amount on the invoicing date. Deliveries to other countries are handled in line with the statutory provisions.

IV. Delivery time, periods

(1.) Periods and deadlines stated by the contractor for deliveries and performance only apply approximately unless the customer explicitly stipulates or has agreed a fixed period or deadline. If shipment of the goods has been agreed the delivery periods and deadlines refer to the time of transfer to the forwarder, carrier or other third-party appointed to provide transportation.

(2.) Any agreed binding delivery/service period starts at the earliest with receipt of the order confirmation by the customer and requires compliance with the agreed payment terms and fulfilment of the contractual obligations and other duties imposed on the customer. If the order is subsequently changed, a previously agreed delivery/service period is removed.

(3.) The contractor is entitled to provide sub-deliveries or services to an appropriate extent.

(4.) The contractor is not liable for the impossibility of delivery or service provision, for delays to deliveries and services if these were caused by force majeure or other events not predictable at the time the contract was concluded (e.g. business disturbances of all kinds, difficulties in purchasing materials or energy, transport delays, strikes, legal lockouts, lack of personnel, energy or raw materials, export licence, approval, response to a valuation request from the responsible authority(ies) or other difficulties in procuring necessary official approvals, incorrect or delayed delivery by suppliers) for which the contractor is not responsible. If such events make delivery or performance more difficult or impossible for the contractor and the hindrance is not only temporary, the contractor may withdraw from the contract. For temporary hindrances the delivery and performance periods are extended or the deadlines are delayed by the period of the hindrance plus a reasonable start-up period. If as a consequence of the delay it is unreasonable for the customer to accept delivery or performance, it may withdraw from the contract by providing a written declaration to the contractor without delay.

V. Payment terms

(1.) If nothing further has been agreed, invoice amounts for orders delivered to Germany are to be paid within 14 days of the invoicing date minus a 2% discount or within 30 days of the invoicing date without deduction. For orders delivered to other countries, the invoice amounts are to be paid without deduction within 30 days of the invoicing date if nothing further has been agreed. The receipt of the transfer by the contractor is decisive as to whether the payment was received on time. Bank transfer is accepted as payment. Only cheques from France, Spain and Ireland are accepted as other means of payment and these only at their fulfilment amount. If the customer is in default the still outstanding amounts are subject to interest from the date of the default at 9% per annum above the base interest rate; the assertion of other damages in the event of default remains unaffected. Payment in advance may be agreed in individual cases.

(2.) The contractor is entitled to execute or provide outstanding deliveries or performances only against payment in advance or the provision of collateral if after concluding the contract it becomes aware of circumstances that could seriously reduce the creditworthiness of the customer and by which the payment of the contractor's pending claims by the customer from the relevant contractual relationship (including from other individual orders to which the same framework agreement applies) is put at risk.

(3.) The customer only has the right to offset the damages if his counter-claims are legally binding, undisputed or recognised by the contractor.

(4.) If the customer is in default of payment for other transactions with the contractor, the contractor is entitled to withdraw from the current contractual relationship.

(5.) If the contractor is in default, the customer can - if it demonstrates that it has consequently suffered damage - request compensation for each default week completed of 0.5%, in total however 5% of the net price for the part of the services that could not be used properly due to the default.

(6.) Claims for damages by the customer due to delays in the services and claims for damages instead of performance that go beyond the limits stated in Number V.(5) and other claims are excluded in all cases of delayed performance, even after the end of a period set by the contractor for performance. This does not apply if the contractor is liable by force in cases of deliberate actions and gross negligence or injury to life, limb or health, under the German Product Liability Act or the infringement of key contractual obligations. Key contractual obligations are those obligations the fulfilment of which defines the contract and on which the client may rely. The provisions above are not associated with a change in the burden of proof to the disadvantage of the customer.

(7.) For default the customer is only entitled to a withdrawal right if it has set the contractor an appropriate period to provide the delivery, it rejects acceptance of the delivery or performance after the end of the period and the period ends without success. This is not associated with a change in the burden of proof to the disadvantage of the customer.

(8.) At the request of the contractor, the customer is required to explain whether it will withdraw from the contract due to the delay in performance of services or whether it will insist on the delivery or performance of services.

VI. Shipment, transfer of risk and approval

(1.) Shipment is made in return for payment by and at the risk of the customer.

(2.) The contractor has the right to determine the shipment type if a particular shipment type is justified due to the special type of delivery.

(3.) The type of packaging is decided solely by the contractor.

(4.) The risk is transferred to the customer on delivery as soon as the delivery is provided to the fulfilment location (Number III. (1.)), at the latest however on handover of the item for delivery (whereby the start of the loading process is key) to the forwarder, delivering organisation or other third party appointed to execute the shipment.

(5.) This also applies to sub-deliveries. For delivery with agreed approval, the risk is transferred on implementation of the approval to the customer. If the shipment or handover is delayed as a result of circumstances that are caused by the client, the risk is transferred to the customer from the date on which the item for delivery is ready for dispatch and the contractor has informed the client of this.

(6.) Insurance to cover theft, breakage, transport, fire and water damage or other insurable risks is only provided on written request by and at the expense of the customer.

VII. Complaints concerning faults

(1.) The deliveries are to be carefully inspected without delay after delivery to the customer or the third parties appointed by it as per the German Commercial Code provisions (Section 377 HGB). They apply with regard to apparent and other defects that would have been detected in an immediate, careful inspection as approved if the contractor does not receive written notification of complaint within 14 working days of delivery. With regard to other defects, the deliveries are considered to have been approved by the client if the complaint is not received by the contractor within 14 working day of the fault being notified; if the defect was detectable for the client during normal use at an earlier point in time, this earlier time is key to the start of the complaint period.

(2.) Faults that only become apparent later must be contested with the contractor without delay, but at the latest within 14 days of the user becoming aware of them.

VIII. Liability for defects in delivery or service performance

The contractor is liable as follows for deliveries and services that do not have the characteristics listed in the order confirmation and/or service specification ("material defects") at the time of the risk transfer (VI.):

(1.) The warranty period is one year from delivery of the goods. This restriction shall not apply if longer periods are stipulated in Section 438 Para. 2 No. 2, 479 Para. 1 and Section 634 a Para. 1 of the German Civil Code (BGB). It also does not apply in cases of injury to life, limb or health caused by negligence as a minimum or in cases of a deliberate or grossly negligent duty infringement and for the malicious hiding of the fault. The statutory provisions on the suspension of statute of limitations, lapsing or restarting of periods remain unaffected.

(2.) The deliveries are guaranteed if the material defect already existed when the risk was transferred, initially as selected by the contractor for subsequent improvement or replacement delivery ("subsequent fulfilment"). In the event of replacement delivery, the customer is obliged to return and transfer the defective item to the contractor.

(3.) No new period of limitation starts due to the subsequent fulfilment.

(4.) The contractor must be given the opportunity of subsequent fulfilment within a proper period of time. If this is refused it is released from liability for material defects.

(5.) If the fault cannot be resolved within an appropriate period or if the subsequent fulfilment is considered to have failed for other reasons, the customer may choose to request a reduction of the fee or withdraw from the contract. However, the client has no withdrawal right for minor contractual infringements and in particular for minor defects.

(6.) No liability is accepted for unsuitable or improper use, defective assembly or commissioning by the customer or a third party, natural use, defective or negligent handling, unsuitable resources etc. if the contractor is not responsible for this.

(7.) Defect claims do not exist for simply insignificant variances from the agreed characteristic, only minor effects on usability, damage incurred after the transfer of risk as a result of defective or negligent treatment or due to special external influences not required in the contract.

(8.) Claims by the customer due to costs, including transport, travel, work and material costs, required for subsequent fulfilment are excluded if the expenses increase because the delivery was subsequently moved to a location different from the fulfilment location.

(9.) The delivery of used items agreed in the individual case with the customer takes place with the exclusion of all warranties for material defects.

IX. Liability limitations

(1.) The liability of the contractor to reimburse damages and expenses, no matter the legal basis, in particular due to impossibility, default, defective or incorrect delivery, contractual infringement, infringement of duties for contractual negotiations and tort, is excluded.

(2.) If the contractor provides technical information or advice and this information or advice is not part of the contractually agreed scope of services it is required to provide, this is provided free of charge and with the exclusion of all liability. The customer is not released in particular from its own responsibility to inspect the goods for the intended use.

(3.) **Number IX. (1.)** and **Number IX. (2.)** do not apply in cases of deliberate actions and gross negligence if the contractor is liable for injury to life, limb or health or under the German Product Liability Act or the infringement of key contractual obligations. Key contractual obligations are those obligations the fulfilment of which defines the contract and on which the client may rely.

(4.) If the contractor is liable under **Number IX. (3.)** for the infringement of key contractual obligations, the level of this liability is restricted to predictable damage when the contract was concluded and that is typical of the contract.

(5.) If nothing further is explicitly stated in the order documents, the contractor does not act as an expert or assessor.

(6.) If the liability is excluded or restricted under **Number IX.**, this also applies to the personal liability of the statutory representatives, senior managers or other vicarious agents.

X. Retention of title

(1.) The contractor retains title to the delivered goods until complete payment of the purchase price, including all subsidiary costs. The retention of title also covers the recognised balance if the contractor posts claims against the customer on an ongoing basis (current account retention). The retention of title also covers all existing and future receivables from the business relationship with the ordering party. The goods and any goods covered by the retention of title that replace the original goods under the following provisions are referred to below as “retained goods”.

(2.) The customer stores the retained goods for the contractor free of charge.

(3.) The customer is obliged to inform the contractor about access by third parties to the retained goods, for example due to pledging and any damage or the destruction of the retained goods without delay. The costs incurred as a result of the refusal to accept are borne by the customer.

(4.) If the customer acts in contradiction to the contract, in particular for default payment or infringement of an obligation under Number (2.) and (3.) above, the contractor is entitled to withdraw from the contract and request the return of the retained goods (realisation of collateral). On executing this right, the customer must inform the contractor about the location of the goods.

(5.) In the event of the onward sale of retained goods, the customer already assigns the resulting receivables against the buyer by way of security to the contractor - for joint ownership by the contractor to the retained goods pro rata to the relevant joint ownership share. This also applies to other receivables that replace the retained goods or are otherwise incurred on the retained goods, such as insurance claims or claims from tort due to loss or destruction. The contractor revocably authorises the customer to collect the claims assigned to the contractor in its own name. The contractor may revoke this collection authorisation only in the event of a sale.

(6.) The customer is entitled to process or sell the retained goods until the occurrence of the realisation of collateral (5.) in normal business operations. Pledging and transfer of collateral are not permitted.

(7.) If the customer processes the retained goods, it is agreed that the processing takes place in the name of and for the account of the contractor as the manufacturer and the contractor directly acquires the ownership or - if the processing is from materials from several owners or the value of the processed item is higher than the value of the retained goods - the joint ownership (fractional ownership) of the newly created item in the ratio of the value of the retained goods to the value of the newly created item. In the event that such ownership acquisition occurs with the contractor, the customer already transfers its future ownership or - in the ratio stated above - joint ownership of the newly created item as collateral to the contractor. If the retained goods are combined with other items into a common item or mixed and cannot be separated and if one of the other items is considered the main item, the contractor, if the main item belongs to it, transfers to the client the ownership of the common item in the ratio stated in Sentence 1.

(8.) If the value of the collateral exceeds the value of the receivables still open by 120%, the customer has a release right.

XI. Replacement clause for the retention of title in legal transactions with other countries

For deliveries to other countries, if in the importing state certain measures are required for the effectiveness of the retention of title stated in **Number X.** or the other rights of the contractor stated there, the customer must refer to these and implement such measures at its expense. If the law of the import state does not permit retention of title but gives the contractor other rights to retain the delivered item, the contractor can execute all rights of this kind. If an equivalent securing of the claims against the customer is not achieved by this means, the customer is obliged to the contractor to obtain at its expense other collateral for the delivered goods or other security.

XII. Right to intellectual property

(1.) The rights to intellectual property remain with the contractor if nothing further is regulated by law.

(2.) On creation of the order, the customer must ensure that no intellectual property rights of third parties are infringed or used improperly.

XIII. Obligation to provide information

The customer will inform all people who use the deliveries - or in the event of the deliveries being sold on by the customer, the buyer - about the instructions and/or recommendations of the contractor for using the deliveries including the instructions and/or other recommendations contained in the contractor's catalogues or brochures or otherwise informed to the customer by the contractor. The customer is obliged to pass on operating instructions, data sheets and other information on the goods and services that the customer has received from the contractor.

XIV. Export checks

If the customer intends to export or re-export an item after receipt from the contractor (including planned exports), the customer must request and obtain all of the licences required for use and/or export of the item. The contractor accepts no liability for compliance with the statutory regulations and/or ability to market the item outside the agreed delivery area.

XV. Re-Export to Russia

(1.) Customer shall not sell, export or re-export, directly or indirectly to Russia or for use in Russia any goods supplied under or in connection with this contract that fall under the scope of Article 12g of Council Regulation (EU) No. 833/2014.

(2.) Customer shall use its best endeavours to ensure the purpose of Number XV.(1.) is not frustrated by any third parties further down the commercial chain including by any possible distributors or resellers, and shall adopt and maintain an adequate monitoring mechanism to ensure compliance with Number XV.(1).

(3.) Any breach of this Number XV. shall constitute a material breach of an essential element of this contract, and contractor shall be entitled to terminate the contract with immediate effect, and customer shall indemnify contractor against all liabilities, losses, interest, costs and expenses that contractor may suffer or incur under or in connection with such breach.

(4.) Customer shall immediately inform contractor if there has been, or it has reasonable grounds to suspect, a breach of this Number XV., and shall permit contractor or its authorised representatives (subject to appropriate confidentiality undertakings) to have reasonable access to its accounts and records relating to activities under this contract to ensure its compliance with this Number XV.

XVI. Disposal of goods

If the contractor is entitled under the laws on disposing of electrical and electronic waste in the country to which the contractor sends the goods, it is permitted to transfer these to the customer if the customer is responsible for the disposal of the goods under the laws of the relevant country at its own expense. If the contractor is not permitted to do so, the contractor is responsible for the safe disposal of the goods as per the laws of the relevant country at its own expense.

XVII. Data protection

The parties are obliged to adhere to the applicable statutory regulations on data protection and to handle personal data in compliance with the applicable statutory regulations. Personal data may only be processed to the extent required to supply the contractual deliveries and services as part of contract fulfilment (intended purpose). Personal data shall be deleted after the intended purpose and the statutory retention periods to be complied with have lapsed.

XVIII. Court of jurisdiction, applicable law, severability clause

(1.) If the customer is a business, legal entity under public law or public law investment fund, the exclusive court of jurisdiction for all disputes arising from this contract is the contractor's head office. This also applies if the customer has no general court of jurisdiction in Germany or if the place in which it is resident or usually resident is not known when the lawsuit starts.

(2.) Only the laws of the Federal Republic of Germany apply. The United Nations Convention for the International Sale of Goods dated 11/04/1980 does not apply to this contract.

(3.) The contractual language is German.

(4.) All online orders, emails and postal orders are stored and provided to the customer on request.

(5.) If individual provisions in the agreement including these General Sales and Delivery Terms are or become ineffective in part or full, this does not affect the validity of the other provisions. The fully or partially ineffective provision is to be replaced by a provision that comes as close as possible to the ineffective one.