

§1 Applicability

- 1.1 All deliveries made and services provided to the principal are subject to the general conditions of I.O.P. EDV-Service Gesellschaft mbH. They are also applicable to future business transactions, even if they have not been expressly referred to. The version valid at the time of conclusion of a contract shall be applicable.
- 1.2 By concluding the contract the customer accepts the General Conditions in their full scope. All deviating regulations – in particular customer's general conditions – as well as amendments shall not be part of the contract, unless expressly acknowledged in writing by IOP. Consumers as well as entrepreneurs/companies may be customers.

§2 Offers

- 2.1 Our offers are not binding unless otherwise agreed.
- 2.2 Should orders deviate from our offers, such deviations shall only become binding if acknowledged by IOP in writing.

§3 Object of delivery/performance

- 3.1 Hardware is delivered in the version and with the features, as produced in serial form by the manufacturer at the time of placement of the order. With regard to the fast changes through technical progress, we shall have the right to deliver devices deviating from the order, as long as they have at least equal standard and features are not significantly different. Images and drawings, technical data provided along with offers to the customer as well as brochures or other information material merely represent approximate values and do not necessarily represent the respective latest status. They neither constitute guaranteed features, neither are they relevant for the definition of the object of the delivery.
- 3.2 If a software installation is carried out by us, the customer shall be solely responsible for obtaining the required licences.
- 3.3 By ordering licensed software from third parties the customer confirms that they have taken cognizance of the scope of the terms of the software licence.
- 3.4 Software to which IOP holds the licence is subject to their own terms of license, which are enclosed when business transactions with IOP-licensed software are made.
- 3.5 The transfer of software delivered by IOP to third parties, including temporary permission of utilisation, shall not be permitted in any case.
- 3.6 Representations or promises made by our staff, in particular such concerning program functions, features and deadlines, which are not contained in the written order documents submitted, shall not be binding on us, unless expressly confirmed in writing by our Managing Director or responsible project manager. Oral representations or promises shall under no circumstances become part of the contract.
- 3.7 The customer shall have to dispose of the packaging material.

§4 Customer's obligation to assist

- 4.1 Unless otherwise agreed in writing, the contract is performed at the domicile of our company. The risk shall pass to the customer upon handing over or shipping the object of delivery/performance to the customer. Should the customer delay in accepting delivery/performance, the object of delivery/performance shall be deemed delivered/handed over.
- 4.2 ARA-contributions charged to us shall be charged to the customer.
- 4.3 Even in the case of agreement on another place of performance within the territory of Austria at least the following shipping costs shall be charged:
 - up to 15 kg EURO 11,00
 - up to 30 kg EURO 15,00
 - up to 75 kg EURO 29,00
 - up to 100 kg EURO 44,00
 - 100 kg and over EURO 0,45/kg

For deliveries outside Austria shipping costs are quoted upon request.

- 4.4 The customer is obliged to provide all information required for consultancy and to place their responsible employees at disposal for the necessary organisation discussions. Upon request processor time (including operating and system support) as well as test data shall be made available to a sufficient extent. Should the customer fail to fulfil these obligations even after the period has been extended in writing, default in acceptance arises.
- 4.5 For orders for provision of services we shall have the right to choose freely which and how many of our members of staff are used for rendering the service, whereby we reserve the right to change our choice at any time. As far as members of our staff are sent to the customer's premises to work, the customer shall have to provide appropriately equipped workstations, which meet the requirements, and

processor time, as well as all technical utilities, documentation and/or information required for carrying out the assignment.

- 4.6 For orders, involving more units and programs respectively, we shall have the right to perform in part deliveries and to invoice these part deliveries. Further, we may demand part acceptance for deliveries and/or performance, which are subject to acceptance.
- 4.7 Should the customer fail to fulfil their obligation to assist despite a written request for assistance, default in acceptance arises.
- 4.8 Should we default in our performance, the customer may grant an extension of time of eight weeks by registered letter, which may contain a threat of rescission of the agreement. The right to rescind the agreement only applies to such part of the delivery or performance, with respect to which default has arisen. Should the customer rescind after lapse of the extended time, they may demand back payments made for that part of the delivery or performance.

§5 Prices

- 5.1 The prices quoted are net prices. All price quotations are subject to change. Costs of program carriers (e.g. magnetic tapes, magnetic discs, floppy discs, streamer tapes, magnetic tape cassettes, etc) as well as any contract fees are, unless included in the hardware price, charged for separately. The Value Added Tax is payable in addition.
- 5.2 In addition to the agreed price the customer shall incur all travel expenses and other expenses related to the execution of the order. The expenses shall be settled on a monthly basis. Should the customer demand performance outside the usual working hours, they shall have to bear the additional costs. Travel times are deemed working hours.
- 5.3 In the case of default in acceptance all open amounts become due for payment. Moreover, the customer shall have to bear all extra costs accrued. Further, we shall have the right to specify new dates for delivery and/or performance, as appears just, taking into account other obligations we may have.
- 5.4 Services including training of the customer's staff shall be charged for as specified in the price list for services valid at the time.
- 5.5 Should, in the course of rendering our services, costs for data lines be incurred, we shall have the right to charge those costs.
- 5.6 For order values below EURO 182,00 excl. VAT we may charge a handling fee of EURO 18,00.

§6 Terms of payment

- 6.1 Unless otherwise agreed in the contract, our invoices are due for payment 14 days from date of invoice. No discounts may be deducted. Default in payment shall arise as of the 15th day from date of invoice, without prior receipt of a reminder. In the case of default in payment all expenses, costs and default interest related thereto are billed. The rate for default interest is 8 % above the basic lending rate valid at the time plus Value Added Tax. Compound interest may be charged; the rate for compound interest is 8 % above the respective interest rate.
- 6.2 The customer shall have the right to withhold the performance of their obligations only if we have acknowledged to the customer in writing that they shall have claim to performance, guarantee and warranty.
- 6.3 Cheques and drafts shall only be accepted, if so agreed, and on account of performance. Discounting and bank charges shall be debited to the customer. Payment shall be deemed effected, as soon as the amount has been irrevocably credited to our account. If the customer has more debts, it is, irrespective of contrary orders by the customer, at our discretion to choose which open debt the incoming payment should be credited to.
- 6.4 If our customer defaults in payment, deliveries for other orders of the customer may be withheld. As soon as the outstanding amounts have been paid in full, we may, as appears just, specify a new delivery date taking into account other obligations to deliver we may have.

§7 Termination

- 7.1 Unless otherwise agreed in the contract, a (service/maintenance) contract concluded with us may be terminated by either of the contract partners per the end of a quarter, subject to a term of notice of three months.
- 7.2 Unless otherwise agreed in the contract, the license for the software granted by IOP shall expire through the termination of the (service/maintenance) contract.

§8 Warranty ("Gewährleistung")

- 8.1 The warranty period for the delivery of hard- and software granted to entrepreneurs is 12 months, unless otherwise specified by the manufacturer. For hard- and standard software it shall begin to run upon handing over or shipment thereof, and for individual adaptation and individual software upon the acceptance and/or part acceptance thereof. The customer shall have no right of recourse as provided in § 933b ABGB (Austrian Civil Code).
- 8.2 We shall not warrant for any used devices.
- 8.3 Should the customer have left goods with us for storage, we shall not assume any liability for damage occurring in the storage location, unless we are liable for damage caused intentionally or by gross negligence.
- 8.4 Within the scope of our warranty obligation we are only obliged to rectify errors and defects detected or to deliver a substitute, as appears just. If the rectification of defects and/or delivery of a substitute fail definitely, point 4.6 shall apply.
- 8.5 In the course of the rectification of defects we shall have the right to replace the entire object of the purchase or parts thereof. The object of the purchase / performance may not be changed against the customer's will.
- 8.6 For products purchased from third parties, we shall have the right to commission the manufacturer and/or supplier to carry out the rectification of defects. In this case, the warranty and service provisions of the manufacturer and/or supplier shall apply. In such case, there shall be no claims against us.
- 8.7 It is at our discretion to decide whether the rectification of defects/delivery of a replacement shall be effected at our or the manufacturer's/supplier's business premises, or on site. If rectification is effected at the customer's premises, the customer shall have to bear the travel costs and expenses. If rectification is effected at our or the manufacturer's/supplier's business premises, the customer shall have to incur the cost of ingoing and outgoing transport.
- 8.8 No warranty shall be granted for resources and parts, which are subject to normal wear and tear, as well as for damage resulting from excessive and improper use.
- 8.9 Further, regarding software products, we assume no warranty for errors, disruption or damage resulting from improper use, altered operating system components, interfaces and parameters, utilisation of inadequate means of organisation and data carriers as well as atypical operation conditions (in particular deviation from installation and storage conditions).
- 8.10 If the object of the order is the alteration or supplementation of existing programs, warranty shall only be granted in respect of such alteration or supplementation. The warranty for the original program shall not be revived thereby.
- 8.11 All warranty ceases, if the customer connects additional devices, and/or installs additional software, which have not been approved by us in writing, or if any alteration and/or repair on hard- or software is carried out without explicitly consulting us, or if such alteration and/or repair is carried out through staff, which has not been authorised by us.
- 8.12 Costs, which arise through unjustified complaint regarding a defect of goods are to be paid by the customer at the price for services applicable at the time.
- 8.13 **For orders including the delivery of hardware and software, which is to be installed by us on the hardware at extra cost, we are entitled to charge extra costs for both the first and second installation of the software requested by the customer, if the hardware has a defect, which is not attributable to us, thus making the duly carried out installation necessary again.**
- 8.14 We shall not warrant that hard- and software delivered by third parties or produced by the customer functions in connection with the hard- and software delivered by us.

§9 Reservation of ownership

- 9.1 All equipment and software delivered by us shall remain our property until payment in full thereof. The customer may sell the equipment within the scope of their normal business operations, if the equipment or software respectively have been purchased for the purpose of reselling, and the customer advises the identity of the third party debtor. Thus the customer assigns already now the debt owed by the third party and shall annotate the assignment appropriately in their books or on their invoices. After the assignment of the claim the customer shall be entitled to collect the debts. IOP reserve the right to collect the debt themselves, as soon as the customer fails to duly comply with their obligation to pay and is in default of payment. Pledging and transfer by way of security is not admissible in general. The customer has the duty to fend off any claim/attachment of third parties to the goods for which we have reserved ownership by referring to our rights. Further, the customer shall forthwith notify us thereof.

- 9.2 If the customer is in default of payment the equipment shall be returned to us forthwith upon our request. However, our request for return shall not represent a rescission of the contract, unless expressly declared in writing. We shall have the right to realise the goods to which we have reserved ownership, whereby the proceeds shall be appropriated to the customer's debt.

§10 Right of utilisation and property

- 10.1 All rights to our work results existing and/or developed by our staff based on the order placed – in particular all rights to programs – shall remain ours. Through their assistance during the production or adaptation of software respectively, the customer shall not acquire any rights exceeding the utilisation specified in the contract, unless agreed otherwise by contract. Each infringement of copyrights owned by IOP shall entail claim for damages/compensation, whereby full compensation is to be given.
- 10.2 Upon settlement of all invoices from an order we shall grant the customer the non-exclusive, non-transferable right to utilise the delivered software in the release valid at the time of delivery.
- 10.3 The customer shall not be granted any rights to the source programs (source codes) – in particular no right of utilisation and/or right to possession. If so agreed with the customer in writing, and if the customer bears the cost, the source code may be put into escrow with a specialised escrow agent.

§11 Set-off and damages

- 11.1 The customer shall not be entitled to set off against our claim, unless we have either acknowledged the customer's claim in writing or it has been recognised by a court.
- 11.2 **We shall only be liable for damages in all possible cases (e.g. damage due to delay in performance, damages for non-performance, damages for positive violation of contractual duty, damages for culpa in contrahendo, etc.), if intention or gross negligence can be proved against our representatives or vicarious agents. All claims of this nature shall be subject to a 12-month limitation period upon performance or delivery.**
- 11.3 **Compensation for consequential damage and financial loss, non-effected economies, interest loss and damage resulting from claims of third parties against IOP shall be excluded in any case, as far as permitted by statute. In all cases, in which we are liable for compensation, in particular as provided in para 1, it shall be limited, as regards the amount and independent of the legal ground, to the higher of the following amounts:**
- EURO 110.000,00 for machines and EURO 40.000,00 for software packages or
 - price paid for the product,

whereby such product is to be regarded, which caused the damage or is the object of the claim or is directly related thereto.

§12 Secrecy

Both parties undertake to – during the term of this agreement and after termination thereof - maintain absolute secrecy concerning the respective other party's business and operating secrets they gain knowledge of.

§13 Concluding provisions

- 13.1 Should one or more provisions found to be void or invalid, the validity of the remaining provisions as well as of these General Conditions in general shall not be impaired thereby.
- 13.2 The parties agree that the competent courts of Linz, Austria shall have exclusive jurisdiction to hear any dispute arising out of or in connection with the agreement made between them – including the dispute about its being in force.
- 13.3 The agreement shall be governed exclusively by the laws of Austria. It shall not be subject to the UN Sales Convention.
- 13.4 The present General Conditions of IOP have been executed in German and English. The parties hereto agree that the German version shall be the authentic one and shall thus prevail over the English one for all matters of interpretation and construction.