

## General Terms and Conditions of ICU tech GmbH

The following General Terms and Conditions of Business govern the relations between the customer and ICU tech GmbH (hereinafter "ICU"). The present terms and conditions serve as the basis for the supply of equipment, systems and services. The deliveries may consist of products and services, of hardware or software or an integration of various services. Depending on the type of business, these general terms and conditions are supplemented by additions in the corresponding contracts.

### 1 Scope

The General Terms and Conditions (GTC) of ICU tech GmbH shall apply if the parties expressly or implicitly accept them. Amendments shall only be effective if ICU confirms them in writing.

### 2 Means of communication

The parties communicate with each other orally, in writing or by electronic data interchange.

Letters, protocols, drawings, plans, faxes, e-mails and other forms of transmission which enable proof to be provided in the form of text or pictures are deemed to be written. Signature means that a handwritten signature or an appropriately qualified electronic signature is required.

### 3 Scope of services

For the scope and execution of the products and services, the order confirmation or, in the absence thereof, the offer of ICU is decisive. Services that are not expressly warranted there, namely documentation, programming, adaptations, installation, commissioning, training and application support, are not included in the scope of services.

Changes to the order confirmation are permitted provided that the products fulfil the same functions or the services fulfil the same purposes. However, ICU is not obliged to make such changes to products and services that have already been manufactured or supplied.

### 4 Place of fulfilment and transport

Unless a special place of fulfilment has been agreed upon or arises from the nature of the business, ICU may provide the products and services at its registered office.

If ICU delivers products to another place, the customer bears the risks and costs of transport as well as the costs of packaging and customs clearance, even if ICU organises the transport.

If ICU provides services at another location, the customer will pay the travel and accommodation expenses.

### 5 Performance by third parties

ICU is authorised to call in third parties for the fulfilment of the contract or to transfer the fulfilment in whole or in part to third parties.

### 6 Information

Each party shall provide the other with all information necessary for the performance of the contract and the safe use of the products and services in a timely, correct and complete manner and shall provide the other with the relevant data carriers, drawings, samples and documents. In particular, the customer must inform ICU in good time about special technical requirements as well as about the legal, official and other regulations at the place of destination, as far as they are of importance.

The Parties shall verify the information provided and shall immediately notify the other Party of any inaccuracies found. If a Party considers it necessary to amend the information provided, it shall notify the other Party in writing within a reasonable period of time.

Any expenses demonstrably incurred as a result of delayed, incorrect or incomplete information or subsequent changes to the information shall be borne by the party responsible.

### 7 Project organisation

If the services to be rendered are provided in the form of a project, the parties are aware that a project requires close supervision during its creation, processing and execution. Accordingly, the Parties shall establish a project organisation. The following rules apply without special agreement:

a) Each party shall designate by name the persons responsible for this project. These persons may represent their company within the framework of this project without restriction and may commit.

b) The parties will send their representatives to a project team. This team is responsible for setting the objectives and monitoring the project. It defines the most important steps of the project.

c) ICU appoints one employee as project manager. This person leads the project and is responsible for planning, work allocation, coordination, control, updating of the project documents, documentation and acceptance.

d) Resolutions of the project team and instructions of the project manager are deemed to be approved if neither the customer nor ICU objects within the set time limit, and in the absence of such a period of five working days.

### 8 Documentation

If the documentation is not included in the scope of services, the customer can obtain it in the usual version against compensation. If the customer requires documentation in special forms or in non-existent languages, this must be agreed separately.

Deviations in the documentation, in particular in descriptions and illustrations, are permissible, provided the documents fulfil their purpose.

### 9 Software and Know-how

The customer may use the software, work results, know-how, data carriers and documentation provided within the framework of the existing licence conditions. In the absence of such conditions, and if the purpose of the transfer does not allow the conclusion to be drawn as to the scope of the rights of use, then the customer and his customers only have the right to use the software with the corresponding products, but not to sell, distribute, copy, expand or modify it independently.

The ownership and the right of further use remain with ICU or its licensors, even if the customer subsequently changes the computer programs, work results or know-how records.

Der Kunde ergreift die erforderlichen Massnahmen, um Computerprogramme, Arbeitsergebnisse und Dokumentationen vor ungewolltem Zugriff oder Missbrauch durch Unberechtigte zu schützen.

The customer shall take the necessary measures to protect computer programs, work results and documentation from unwanted access or misuse by unauthorised persons.

### 10 Usage

The customer is responsible for the use of the services and products as well as the combination with other products, namely with information technology or electrical equipment and installations. In doing so, he must exercise the necessary care and observe all instructions of the manufacturer and the supplier.

The customer is obliged to pass on all information relevant to security to the users in a suitable form.

### 11 Dates

Only dates that have been confirmed in writing are binding. Such dates shall be extended appropriately,

a) if ICU does not receive the information, samples or materials it needs for the execution in time, or if the customer subsequently changes them;

b) if the customer is in arrears with the work to be carried out by him or with the fulfilment of his contractual obligations, in particular if he does not comply with payment terms;

c) if obstacles occur which are outside the responsibility of ICU, such as natural phenomena, mobilisation, war, riots, epidemics, accidents and illness, significant operational disruptions, industrial disputes, delayed or defective deliveries and official measures.

One party may only perform a service before the agreed date with the consent of the other party.

**In the event of delays, the customer must grant ICU a reasonable period of time for subsequent performance. If the grace period is not observed and if a further delay is unreasonable for the customer, he may, provided he notifies ICU within three working days of the expiry of the grace period, declare the contract cancelled.**

**If ICU is demonstrably responsible for the delay in delivery, the customer is entitled to compensation for the actual damage despite subsequent fulfilment or cancellation of the contract. The compensation is limited to one percent per week, at most ten percent, measured on the value of the delayed delivery. Further claims arising from delays in delivery are excluded.**

## 12 Acceptance

Unless a special acceptance procedure has been agreed, the customer shall test all products and services himself.

Immediately upon receipt, the customer shall check the delivered products with regard to identity, quantity, transport damage and accompanying documents. As soon as possible, the customer also checks the products and services for other defects.

The customer must report any defects immediately in writing. Products and services shall be deemed accepted if they are used commercially for more than twenty working days.

Hidden defects which could not have been discovered during a proper inspection must be reported in writing immediately after discovery.

## 13 Deficiencies

ICU guarantees that the necessary care is taken and that the products and services meet the warranted characteristics. Furthermore, ICU is liable for the suitability to the extent that the customer has informed ICU in writing about the use of the products and services before the conclusion of the contract.

ICU does not guarantee the results that the customer wants to achieve with the products and services. ICU is also not liable for damages resulting from their use.

Excluded from the liability for defects are errors and malfunctions for which ICU is not responsible, such as natural wear and tear, force majeure, improper handling, interventions by the customer or third parties, excessive strain, unsuitable equipment, malfunctions caused by other machines and systems, unstable power supplies, special climatic conditions or unusual environmental influences.

The customer shall not assert any claims due to an insignificant defect. Insignificant are defects, in particular if they do not impair the use of products and services.

In case of considerable defects the customer has to grant ICU a reasonable period of grace to remedy the defects (repair or replacement). ICU rectifies the defects at its own discretion in its own rooms or at the customer's premises, who must grant ICU free access for this purpose. The costs for disassembly and assembly, transport, packaging, travel and stay are at the expense of the customer. Replaced parts become property of ICU.

The warranty and limitation periods are twelve months from delivery or provision of services. They shall not be interrupted upon recognition or elimination of a defect.

**If the remedy of defects fails, the customer is entitled to a reasonable price reduction. He may only declare the contract cancelled if the acceptance is unreasonable.**

**If ICU is demonstrably to blame for the defect, the customer must, despite the removal of the defect, price reduction or cancellation of the contract**

**A claim for compensation for the actual damage, but to a maximum of ten percent of the value of the defective performance. Compensation for loss of profit and other financial losses is completely excluded.**

## 14 Further liability

ICU is liable within the scope of its liability insurance for further personal injury and damage to property, which the customer can prove to be the fault of ICU. Further claims, especially for the behaviour of auxiliary persons, are excluded.

## 15 Prices and terms of payment

Unless otherwise stated, prices are quoted in Swiss francs excluding value-added tax, duties, customs, transport, packaging, insurance, permits, certifications, installation, commissioning, training and application support. They are due for payment net within thirty days of the invoice date.

The customer may only offset counterclaims with the signed consent of ICU.

If the Customer fails to meet the payment deadline, he shall pay, without reminder, default interest at the rate of eight percent per annum from the due date.

In case of late payment ICU may

a) declare that all payments from the business relationship with the customer, even if they do not originate from the same legal relationship, are due immediately;

b) grant the Customer a reasonable grace period for all payments due and, if the Customer does not pay the full amount due within this period, declare the termination of the contracts and reclaim the delivered products and services;

c) make the further performance of services (including rectification of defects), even if they do not originate from the same legal relationship, dependent on suitable securities of the customer, including advance payment.

## 16 Discretion

Both parties undertake not to disclose to third parties any information from the business area of the other, which is neither generally accessible nor generally known, and to make every effort to prevent third parties from accessing this information. On the other hand, each party may use in its traditional activities knowledge acquired in the course of its business.

The Parties shall also impose this confidentiality obligation on their employees, servants and agents.

## 17 Data protection and backup

Personal data, in particular data about companies, customers and employees, may be processed to the extent that this is necessary for the business transaction. Both parties observe the rules of data protection and take the appropriate organisational and technical precautions for this purpose.

Each party is responsible for a reliable backup of its own data as well as of data required for the provision of services. The customer will back up all data in good time before any ICU employee can access his IT system.

## 18 Export

The customer is responsible for compliance with all relevant domestic and foreign export regulations.

## 19 Choice of law and place of jurisdiction

This legal relationship is subject to Swiss law.

**19.1 The place of jurisdiction is the regional court Emmental - Oberaargau with its seat in 3400 Burgdorf. ICU as supplier may also call upon the court at the customer's place of business.**