

GTC / General Terms and Conditions of LIS.TEC GmbH

(for translation purpose only; please see original german AGB for legal purpose)

State of 01st Sept..2017

1 Scope

- 1.1 LIS.TEC GmbH (hereafter: LIS.TEC) supplies goods, licenses and services exclusively on the basis of the following General Terms and Conditions (hereafter: "GTC").
- 1.2 The Customer's general terms and conditions are not applicable, even if the Customer makes such a claim in association with an order and if LIS.TEC does not raise an objection. Any individual agreements made between LIS.TEC and the Customer (for example commitments, collateral agreements, changes or additions to the GTC), shall have priority over this present GTC. The content of such agreements is subject to a written contract or confirmation in writing by LIS.TEC.

2 Goods, Licenses and Services

- 2.1 All offers made by LIS.TEC are non-binding and without obligation. A contract does not come into existence until LIS.TEC issues a written order confirmation by way of fax or email, at the latest at the time the goods are accepted by the Customer or upon the actual provision of services. Reasonable partial deliveries and related partial invoicing are always possible, insofar as they remain within customary quantity and quality tolerances.
- 2.2 In the absence of other written agreements between the partners the contents and scope of the goods and services owed by LIS.TEC are those defined in the order confirmation.
- 2.3 LIS.TEC reserves the right to make changes to the contractual product, particularly in the context of further developments, insofar as the agreed performance data are ensured and the changes to the contractual product are reasonable for the Customer.
- 2.4 The delivery and service provision dates are nonbinding. LIS.TEC assumes responsibility only in cases where the performance has become due, the Customer has already granted an extension of the deadline in writing (at least 14 days) which LIS.TEC has failed to fulfill, and the delay is the responsibility of LIS.TEC.
- 2.5 In cases of minor negligence, the Customer cannot claim compensation due to delays in delivery or performance. Item 10.4 shall apply accordingly.
- 2.6 LIS.TEC can reasonably extend delivery and performance deadlines in case of disruptions that occur due to force majeure and other unforeseeable hindrances for which LIS.TEC cannot be held responsible, e.g. perturbations in the context of non-receipt of deliveries from subsuppliers, in the event of strikes, lock-outs, interruption of operations etc. The statutory rights of the Customer remain unaffected. Items 2.4 and 2.5 shall apply accordingly.
- 2.7 LIS.TEC reserves the right to withdraw from the contract in total or in part for the reasons cited in Item 2.6, insofar as the contract has not yet been fulfilled.
- 2.8 If the Customer defaults in accepting the delivery of goods or services offered by LIS.TEC or does not fulfill its obligations thereto, the Customer shall reimburse any additional expenses or damages that accrue due to said default or failure to fulfill such obligations.

3 Inspection and Passage of Risk

- 3.1 The risks associated with the damage, loss or delay of the contractual product are transferred from LIS.TEC to the Customer at the time the products are handed over to the transportation company.
- 3.2 If any of the delivered goods are visibly damaged or items are missing upon receipt, the Customer must note these on the receipt voucher of the transportation company. The note must clearly denote the damages or missing items in a sufficiently clear manner (notice of loss as per § 438 German Commercial Code [HGB])
- 3.3 Immediately upon receipt, the Customer must check the goods as regards completeness, conformity with the delivery notice and deficiencies (§ 377 German Commercial Code [HGB]). If a letter of complaint is not submitted within four days of the delivery note date, the delivery of the goods is considered to be duly and properly completed, except in cases where the defect was not identifiable at the time of the inspection.

4 Prices and Terms of Payment

- 4.1 The prices indicated by LIS.TEC in the order confirmation are the definitive prices. The prices are subject to the statutory value added tax. Commercial packaging of the delivered products is included in the prices if not specified otherwise. Other ancillary services, possible bank fees or costs, in particular carriage, tolls, fixed environmental and handling fees will be invoiced separately to the Customer in accordance with the existing regulations.
- 4.2 After conclusion of the contract, LIS.TEC reserves the right to increase its prices in a reasonable manner in case of cost increases, particularly due to cost increases by its suppliers or exchange rate fluctuations. If the Customer so requests, LIS.TEC will explain the reason for the price adjustment in detail, the individual cost elements and their effect on overall pricing. This does not affect the statutory rights of the Customer.
- 4.3 If a credit limit is granted and unless otherwise agreed, payment without any deductions shall be due immediately. Invoicing takes place at the time of delivery, except by payment in advance. If the agreed payment period is exceeded, statutory default interest in the amount of 8 percentage points above the basic lending rate of the Deutsche Bundesbank shall be levied as of the due date.
- 4.4 The prerequisite for granting credit limits is that the Customer disposes of a sufficient credit limit for each individual order. If the order exceeds the available credit limit, LIS.TEC reserves the right to demand advanced payment of the remaining order value. In case of a subsequent change in the Customer's creditworthiness, LIS.TEC is authorized to deviate from the granted terms of payment by demanding advanced payment or provision of security, and in case of payment default, to withdraw from the contract.

- 4.5 LIS.TEC is authorized, any divergent terms of the Customer notwithstanding, to first use any submitted payments to pay off the Customer's older debts. Insofar as costs and interest accrue due to the payment default, LIS.TEC is authorized to first use any payments to defray these costs, then to pay off the interest, and lastly the principle debt.
- 4.6 The Customer is entitled to execute offsets or retentions, only insofar as the Customer's respective counterclaim has legal effect, is ready for decision or is uncontested.
- 4.7 If the Customer deviates from the agreed payment obligations without justification, LIS.TEC may either require advanced payment or a provision of security. If such justification exists, LIS.TEC may additionally require immediate payment of all outstanding debts. As regards claims for which deferred payment has been agreed, the Customer's right to pay in installments is annulled in cases where the Customer defaults on two consecutive payment deadlines or on a substantial portion of the installment, or if the Customer is delayed in payment of an amount corresponding to a two-month installment for a time period exceeding two payment deadlines.

5 Data Processing / Data Protection

- 5.1 Customer authorizes LIS.TEC to process data about the customer received with regard to the business relationship or in connection with it, no matter whether they come from the customer or from third parties, within the context of the German law for protection of personal data. Customer data is stored pursuant to § 33 BDSG.
- 5.2 The customer agrees that LIS.TEC may give detailed information on products, amounts, turnovers as well as name and address-information of the customer to its suppliers (sell-out-reporting) in order to fulfil its contractual duties, especially for project-deals (end-user-business supported by suppliers).
- 5.3 Moreover customer agrees that LIS.TEC may forward the data to third parties for means of contract fulfilment and checking of payment behaviour or decisions on credit and collection. The customer agrees the data to be transferred abroad, if considered necessary by LIS.TEC
- 5.4 The customer is responsible for making appropriate data protection provisions in the contractual relationship with the affected third parties or their end customers and for informing the affected third parties about the processing, storage and transfer of data as well as, if applicable, the processing of order data by LIS. TEC. The customer is responsible for obtaining the necessary consents from the third parties concerned and submitting them to LIS. TEC if necessary.

6 Reservation of Title

- 6.1 LIS.TEC shall retain ownership of any delivered products until all current and future contractual claims are fulfilled, as well as those claims arising in the context of the overall business relationship.

- 6.2 The Customer is entitled to resell the retained goods in the regular course of business under reservation of title. The Customer shall assign to LIS.TEC - at the time of the order and in advance - all claims arising from resale of the retained goods and at their invoice value. The Customer is authorized to collect the claim directly, as long as the Customer fulfills its payment obligation, does not default in payment, and in particular, does not suspend payment. However, if any of the above is the case, at the behest of LIS.TEC the Customer is obliged to communicate the names and addresses of its buyers, as well as the type and scope of all existing claims against same. All relevant documents are to be handed over to LIS.TEC; the buyers must be notified of any assigned claims.
- 6.3 Any connecting, mixing, processing or transformation of the retained goods is done exclusively for LIS.TEC. In this case, LIS.TEC is granted a coownership share of the finished goods and/or of the new object, which corresponds to the proportion of the value of the retained goods vis-à-vis the value of the finished goods and/or the new object.
- 6.4 The Customer is not allowed to pledge the retained goods or to transfer them by way of security. If third parties have access to the retained goods or if an application for insolvency proceedings has been filed with respect to the Customer's assets, the Customer shall make reference to the property belonging to LIS.TEC and immediately inform LIS.TEC in writing.
- 6.5 In case of a breach of contract on the part of the Customer, particularly with regard to delayed payment involving other or future deliveries or services by LIS.TEC to the customer, or in case there is any indication of a deterioration in financial circumstances, LIS.TEC reserves the right to demand that the Customer return the retained goods it has received. The exercise of rights from the reservation of title or a demand for return constitutes a withdrawal from the contract. This notwithstanding, LIS.TEC reserves the right to assert claims for damages. All costs associated with repossession and recovery shall be borne by the Customer. To enforce these rights, LIS.TEC may demand access to the Customer's business premises and to the retained goods, or may demand that the Customer assigns a claim for return against the Customer's buyers.
- 6.6 The Customer is obliged to handle the retained goods carefully. In particular is the Customer obliged to adequately insure the goods at its own expense for their replacement value against fire, water damage and theft.
- 6.7 Products delivered for testing and demonstration purposes shall remain the property of LIS.TEC. The Customer is obliged to store them properly; such products may only be used in the context of the existing agreement.
- 6.8 If third parties have access to the retained goods or to the assigned claims, in particular by way of enforcement proceedings, the Customer must inform LIS.TEC without delay and make all pertinent documents available to LIS.TEC that are required to enforce the pertinent property rights. Insofar as the third party is not able to reimburse LIS.TEC for any accrued judicial and extrajudicial costs, the Customer shall assume liability.

7 Defect Claims

- 7.1 As regards goods delivered to the Customer, the regulations pertaining to sales liability shall apply for material defects, unless otherwise stipulated below.
- 7.2 LIS.TEC does not guarantee that the functions of the software will correspond to Customer requirements, nor that the contractual products selected by the Customer will interoperate properly. Installation and configuration services are not generally warranted by LIS.TEC, unless otherwise agreed in writing. Not explicitly commissioned advisory services are provided by LIS.TEC free of charge and without obligation. This does not imply any liability, particularly as regards the interoperability of the individual products.
- 7.3 Defect claims shall not apply
- in case of only minor deviations from the agreed quality,
 - in case of only slight impairment of usability,
 - in case of wear occurring in the context of normal use,
 - if serial numbers, model designations or similar markings have been removed or rendered illegible,
 - if the product is altered by the Customer or a third party, if it is improperly installed, maintained, repaired, used, or exposed to harsh environmental conditions, which are not in accordance with the manufacturer's installation requirements, unless the Customer can demonstrate that these conditions were not the cause of the claimed defect.

- 7.4 LIS.TEC assumes no responsibility for public statements, particularly advertising claims, made by the manufacturer.
- 7.5 In case of material defects, LIS.TEC will first decide to either repair or to replace the material in question. If LIS.TEC is not able to repair or replace the material or if this is associated with unreasonable costs, or if LIS.TEC does not correct the defect within an adequate, defined grace period (at least 14 days), the Customer is authorized to reduce the purchase price or to withdraw from the sales contract. If LIS.TEC delivers goods for the purpose of replacement the Customer must surrender the defective product(s) and compensate for any benefit of use. In the event of withdrawal, the Customer will be credited with a sum amounting to the purchase price minus the value of any benefit of use. The benefit of use is determined on the basis of the relationship of the use of the object by the purchaser vis-à-vis the expected total utilization period.
- 7.6 The warranty provisions cited in the preceding Items 7.1 to 7.4 shall apply accordingly for work performance. In particular, LIS.TEC may elect to correct the deficiency as it sees fit or to provide a new service, insofar as the agreed service does not involve contractual functions or typical capability characteristics.
- 7.7 The statute of limitations regarding material defects and deficiency of title claims is 12 months from the time of the transfer of risk. This limited liability does not apply for cases described in Item 10.5.
- 7.8 The rights of the Customer as per §§ 478, 479 German Civil Code [BGB] shall remain unaffected, insofar as the goods are the object of the sale of consumer goods. In case of doubt, the Customer must demonstrate to LIS.TEC that the sale did in fact involve consumer goods.
- 7.9 Items 7.1 - 7.6 do not apply in cases where the manufacturer offers a more comprehensive guarantee/warranty. LIS.TEC passes these on to the Customer in their entirety, without itself providing any guarantees.
- 7.10 Defect claims may be assigned only with the express consent of LIS.TEC.
- 7.11 If LIS.TEC's liability for material defects is unjustified, particularly because the goods were not purchased from LIS.TEC, because the defect claims are time-barred, or because no material defect is present, LIS.TEC reserves the right to demand the return of the goods at the risk and expense of the Customer, and to levy an administrative fee in the amount of € 60 for processing and checking. The Customer reserves the right to provide proof that a lesser amount is commensurate. Repairs outside the liability for material defects will be charged. Cost estimates will be charged to the Customer.
- 7.12 Software is subject to the terms and conditions of the software manufacturer within the legal framework in the area of application.

8 Business Projects (manufacturer-supported end customer business)

- 8.1 In the performance of business projects, LIS.TEC may - subject to the approval of the pertinent manufacturer and delivery to the named end customer - grant offers or prices at special conditions.
- 8.2 The Customer undertakes vis-à-vis LIS.TEC to comply with the conditions of the relevant manufacturer, particularly by retaining all end customer documents such as delivery notes and invoices (irrelevant data may be concealed) retroactively for a period of 12 months, to produce them if so requested by LIS.TEC or by the manufacturer, to deliver to an admissible end customer only, and not to charge more than the recommended retail price.
- 8.3 In case the manufacturer refuses approval or if the manufacturer's conditions are contravened – irrespective of the right to assert other claims – LIS.TEC reserves the right to charge the Customer for the difference between the special promised price and the regular purchase price of the goods.

9 Industrial Property Rights / Copyright

- 9.1 All software products are subject to the relevant licensing terms of the manufacturer with respect to their use. The Customer is obliged to comply with these licensing terms and to instruct its buyers accordingly. Any breach of contract by a buyer must be reported immediately to LIS.TEC.
- 9.2 LIS.TEC shall assume no responsibility for delivered products in cases involving industrial property rights or copyright laws infringements by third parties. The Customer must inform LIS.TEC immediately of any claims made against the Customer for this reason.
- 9.3 The Customer is prohibited from removing, altering or in any way disguising any references on the product with respect to trademark, brand or other property rights. The Customer must obtain approval from LIS.TEC before translating any of the provided documentation material for commercial purposes.
- 9.4 Insofar as the delivered products are manufactured according to the Customer's design or instructions, the Customer must release LIS.TEC from the assertion of any claims, which might be made by third parties due to infringements of industrial property rights and copyrights.
- 9.5 The Customer is not authorized to alter or to copy software (except for back-up copies), to adapt it for use on incompatible hardware, or to adapt it in any other way.
- 9.6 Software rental contracts require previous written consent from LIS.TEC. Software lease contracts may only be concluded in the context of the conditions imposed by the pertinent manufacturers and/or in compliance with legal stipulations.

10 Liability

- 10.1 As regards damages for which LIS.TEC is responsible, LIS.TEC shall assume liability in accordance with the statutory requirements unless otherwise stipulated below.

- 10.2 LIS.TEC does not assume liability for damages that do not involve the delivered products themselves; in particular LIS.TEC assumes no responsibility for the loss of data and resultant damages, loss of profit or any other financial losses (indirect damages and consequential damages) that accrue to the Customer.
- 10.3 In case of material damage and other damage, LIS.TEC's obligation to pay compensation for damages for which it assumes liability is limited to the sum insured in the context of public and product liability insurance policies taken out by LIS.TEC (1.000.000 [one million] Euro).
- 10.4 If LIS.TEC's liability is excluded or limited, this shall also apply to the personal liability of its employees, salaried workers, associates, representatives and vicarious agents.
- 10.5 The exemption from liability cited in the previous items 10.1 to 10.4 does not apply,
- if claims are made as per the Product Liability Act or the impossibility of performance is attributable to LIS.TEC;
 - in case of guarantees granted by LIS.TEC;
 - in case of personal injury due to a breach of duty within the sphere of responsibility of LIS.TEC, its legal representatives or of its vicarious agents;
 - if intentional or gross negligence on the part of LIS.TEC is the cause of damage, or if LIS.TEC is in contravention of its contractual obligations (obligations that must be fulfilled in order to properly execute the contract, and the observance of which the contractual partner relies on, and may rely on regularly). In case of a breach of an essential contractual obligation, LIS.TEC's liability is in any event limited to compensation for foreseeable, typically occurring damages.

11 Export

All products, spares, technical data, software and documentation may be subject to export and import laws, rules and regulations including but not limited to those of the Federal Republic of Germany, the European Union, the United States of America and the country of import. In the event customer exports the Product outside the Federal Republic of Germany, customer shall comply with all applicable export and import rules and regulations and obtain all applicable licenses..

12 Profit and Income Tax/Import Sales Tax/“Gelangenheitsbestätigung“

- 12.1 For customers located outside Germany, any purchase of products is subject to the regulations pertaining to Profit and Income Tax/Import Sales Tax of the applicable economic area; in particular they should voluntarily state their added tax identification number and be willing to provide all information upon request. In case of non-compliance, the Customer shall compensate for all ensuing costs and damages.
- 12.2 The customer is obliged to cooperate with LIS.TEC in the preparation of all documents required under tax legislation and is obliged to issue these documents and provide them to LIS.TEC. This particularly applies to the “Gelangenheitsbestätigung” according to Paragraph 17a Section 2 Phrase 1 No. 2 UStDV (Umsatzsteuerdurchführungsverordnung).

13 General Provisions

- 13.1 Without prejudice to the provisions of § 354 a of the German Commercial Code [HGB], the Customer is not authorized to assign its claims under the contract, without obtaining prior approval from LIS.TEC. This also applies for all material defect claims made against LIS.TEC.
- 13.2 LIS.TEC reserves the right to include new versions of this GTC in the individual contracts. In this regard, LIS.TEC will send new versions to its customers and request that they provide express written consent within a 6-week period. If the Customer does not submit an objection during this opposition period, the new version will become a constituent part of the contract.
- 13.3 If the Customer is a commercial entity, the place of performance is Ludwigsburg and jurisdiction is Stuttgart, Germany. Nevertheless, LIS.TEC reserves the right to pursue legal proceedings against a Customer in any other legal jurisdiction.
- 13.4 The laws of the Federal Republic of Germany shall apply. The UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.