

## GENERAL TERMS AND CONDITIONS

### 1. General

The following General Terms and Conditions form a part of the contractual relations between ITB GmbH and the customer. In the case of ongoing business relations this shall also apply to contracts concluded by telex or telephone. The validity of any contradictory Purchasing Terms or Terms and Conditions by the customer is hereby expressly contradicted. These shall not obligate ITB GmbH in any way even if ITB GmbH does not disclaim and contradict them again on conclusion of the contract.

### 2. Provision of service

ITB GmbH will provide its service as per the assignment and in accordance with the general state of the art.

### 3. Remuneration

Inasmuch as travel by ITB GmbH is necessary, such travel - inasmuch as nothing to the contrary has been agreed between the parties - shall be remunerated separately in accordance with the usual ITB GmbH rates.

If the service is charged for in accordance with the expense incurred, ITB GmbH shall be entitled to increase the prices agreed after one year of the contract period, if circumstances have changed after the conclusion of the contract, in particular if there has occurred an increase in raw material prices and wage and carriage costs. In this case, price changes shall only be possible in connection with, and for compensating, the stated increases in prices and costs.

The respectively applicable value added tax will be added to all prices.

If a price has not been expressly agreed, the prices according to our price list valid at the time of the conclusion of the contract shall apply.

### 4. Payments

If nothing to the contrary has been agreed, invoices are payable without deductions and immediately upon receipt.

The creditworthiness of the contractual partner is a precondition for delivery. If, subsequent to the conclusion of the contract, ITB GmbH receives information suggesting that the extension of any credit for the amount arising from the contract might not be without concern or if facts arise which cast any doubt in this regard, in particular, if there is a notable deterioration in the financial situation (foreclosure, suspension of payments, insolvency, liquidation), ITB GmbH shall be entitled to demand prepayments or sureties or payment in cash, without any concern regarding previous agreements to the contrary.

The withholding of payments on the part of the customer is excluded, if the counterclaims arise from a different contractual relationship. If the counterclaim is based on the contractual relationship, the withholding of any payments shall be permissible only if these counterclaims are undisputed or legally established.

The customer shall only be entitled to declare any offsetting against counterclaims if the claims concerned are uncontested or have been recognized by declaratory judgement.

The customer shall be deemed in default if he does not settle any payments due at the latest 30 days after receipt of the relevant invoice or any other equivalent payment notice. ITB GmbH reserves the right to set the customer in default at an earlier date by issuing a reminder after payment has become due. Contrary to sub-clauses 1 and 2, the customer shall be deemed in default even if it is agreed that the agreed price should be paid at a point in time determined by means of a calendar and the customer does not make the payment at the latest by this time.

### 5. Rights of use

If there is no other agreement, the customer shall have the right to use the work for the intended application and to impart knowledge of the same to any third parties to the extent required for the purpose.

If there are any rights of use, in particular copyrights, these remain the property of ITB GmbH.

The rights of use with regard to calculations and results from data processing are exclusively due to the customer.

### 6. Duty of cooperation

When creating adapted development projects or individual projects, the customer shall be obliged to cooperate such that, if this is not already done before or on the day of the conclusion of the contract, the customer communicates in writing the intended purpose, operating conditions and requirements at the latest 2 weeks after the contract has been concluded. If so requested, ITB GmbH shall assist the customer in this to an appropriate extent.

Unless explicitly otherwise agreed in writing, ITB GmbH shall not check the documents provided by the customer for completeness and accuracy, and within the framework of the performance of the order shall presume the completeness and accuracy of the documents provided by the customer and the information contained therein.

If ITB GmbH finds that it cannot do justice to the intended purpose, operating conditions or requirements, as communicated after the contract has been concluded, it shall be entitled to a contractual right of withdrawal, if nothing to the contrary has been agreed, within an appropriate time period of four weeks from the date of the communication. The withdrawal must be effected in writing.

### 7. Delivery time

Inasmuch as the order confirmation does not expressly stipulate anything to the contrary, the stated delivery dates shall be deemed non-binding, and ITB GmbH does not guarantee compliance with the same.

The agreed delivery period shall be extended by that period during which the customer does not meet his obligations, in particular his cooperation or provision obligations, from this or another contract.

In addition, the delivery period shall be appropriately extended in the event of any measures in connection with lawful labour disputes, in particular strikes and lockouts in one's own company as well as in third-party companies, irrespective of the lawfulness of the labour dispute measures taken, inasmuch as ITB GmbH is not at fault regarding acceptance, precautions or avoidance measures; furthermore, in the case of any unforeseen events occurring such as mobilisation, war, prohibitions of export or import, special statutory or government regulations, lack of raw materials or fuel, fire or closures to traffic or force majeure, if such obstructions can be proven to influence the completion or delivery of the delivery item, which occur at ITB GmbH, a pre-supplier or sub-supplier or freight forwarder, and which - in addition - ITB GmbH is not responsible for, with liability being excluded only for slight negligence. If the above-stated circumstances cause the performance of the services to become impossible to ITB GmbH, ITB GmbH shall also be entitled to cancel the contract.

In the event of any default by ITB GmbH, the customer shall be entitled to its statutory rights. However, the customer can only claim damages, if ITB GmbH, its legal representatives or vicarious agents have acted with intent or gross negligence, or are mandatorily liable with regard to any damage resulting from injuries to life, limb, body or health or the violation of any essential contractual obligations. However, the damages for violating essential contractual obligations shall be limited to the foreseeable damage typical for this type of contract, inasmuch as it is not a case of intent or gross negligence, or if it is any damage, attributable to ITB GmbH, resulting from injuries to life, limb, body or health.

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### 8. Liability for deficiencies in services or goods delivered

The customer must examine the performance immediately, and, if a defect is found, immediately inform and notify ITB GmbH in writing. The customer must provide details on how the defects became apparent and what impact they have. If the customer fails to send such a notification, then the performance shall be deemed to have been approved, with the consequence that any warranty claims are excluded.

If the customer shall not allow ITB GmbH any opportunity to satisfy itself of the defect, and, in particular, if the customer shall not make immediately available the performance / work subject to complaint, if so requested, all warranty claims are voided. The same shall apply if, without prior approval by ITB GmbH, the customer modifies the performance / work, or has it modified by any third parties, and thereby renders the removal of any such defects impossible or unreasonably difficult. In all cases the customer must bear the additional defect removal costs arising from the modification.

The warranty shall be effected at the discretion of ITB GmbH initially in the form of rectification or a replacement delivery (production of a new work). If such rectification or supplementary performance fails or if it is justifiably rejected by ITB GmbH, the customer may rectify the defect itself and demand compensation of the necessary expenditure or demand the cancellation of the contract (withdrawal) or demand a reduction in remuneration (abatement). In the case of only a minor non-conformity, in particular in the case of only minor defects, the customer shall not be entitled to a right of withdrawal.

Claims for damages by the customer - for whatever legal reason - shall be excluded; this shall in particular also apply to indirect losses and consequential losses, e.g. operational disruptions, lost profits and/or production downtime. This exclusion of liability shall not apply, however, where ITB GmbH, its legal representatives or vicarious agents have acted with intent, malice or gross negligence, or are liable under the German Product Liability Act (Produkthaftungsgesetz) for losses attributable to ITB GmbH and resulting from injuries to life, limb, body or health, or the violation of any essential contractual obligations. However, the damages for violating essential contractual obligations shall be limited to the foreseeable damage typical for this type of contract, inasmuch as it is not a case of intent or gross negligence, or if it is a case of mandatory liability for any damage attributable to us, resulting from injuries to life, limb, body or health. This liability provision explicitly shall not cover the principles of claims under data protection law.

The warranty period shall be one year from delivery or, inasmuch as an acceptance is required, the acceptance of the performance rendered. Alternative arrangements shall only apply where ITB GmbH has maliciously failed to disclose the defect, or where the law mandatorily prescribes longer periods.

Minor defects cannot lead to any refusal of acceptance.

### 9. Data backup / liability for the restoration of data

It is an essential contractual obligation of the customer to carry out data backups at regular intervals appropriate for the application and to use the respective latest version of an anti-virus protection programme on his own computer.

In the event of a loss of data that ITB GmbH can be held responsible for, the liability provisions in Clause 8 of these Terms and Conditions shall apply. In all other respects the liability of ITB GmbH shall be limited in terms of the actual amount to the expenditure for restoration that would have arisen if the data had been backed up properly and regularly.

### 10. Retention of title and extended retention of title

ITB GmbH shall retain title to all products supplied by it until full payment has been made for all sums owed by the customer resulting from the business relationship. This shall also apply if the agreed price for individual project performances designated by the customer has been paid.

If the customer defaults on payment, ITB GmbH may - without any prejudice to its other rights - withdraw the project performances to provide security for its rights, if ITB GmbH announces these measures to the customer beforehand and sets the customer a reasonable period of grace. Following withdrawal, ITB GmbH will declare to the customer whether ITB GmbH shall claim damages on the grounds of non-performance of the contract or cancel the contract for these project performances.

### 11. Confidentiality

Both contracting parties undertake to treat as strictly confidential all knowledge of any business secrets or information designated as strictly confidential, where such knowledge or information has been obtained in connection with the contractual relationship.

### 12. Place of performance and court of jurisdiction

The place of performance and court of jurisdiction for all disputes arising from all and any business transactions subject to the application of these General Terms and Conditions shall be, if the parties are merchants, legal entities under public law or special funds under public law, the registered office of ITB GmbH, and this shall apply to legal action taken by ITB GmbH as well as to any legal action taken against ITB GmbH. In addition, ITB GmbH shall be entitled to institute legal proceedings at the general court of jurisdiction of the customer.

### 12. Data protection clause

The customer is hereby notified that personal data shall be collected, saved and processed, where legally permitted. Details can be found in the privacy policy, which is available online at [www.itb-fem.de](http://www.itb-fem.de), and which can also be requested from the Data Protection Officer of ITB GmbH.

### 13. Application of German law

The relations between ITB GmbH and the customer shall be subject exclusively to the law of the Federal Republic of Germany, but excluding international private law and the Convention on Contracts for the International Sale of Goods (CISG).

### 14. Application of German law

The relations between ITB GmbH and the customer are exclusively subject to the law of the Federal Republic of Germany, but subject to the exclusion of the law of conflict and the Convention on Contracts for the International Sale of Goods (CISG), inasmuch as the customer is not a consumer.

### 15. Final provisions

The contract and its modifications require the written form.

If individual provisions of these General Terms and Conditions are or become ineffective, this will not affect the effectiveness of the remaining clauses. The ineffective provision shall be replaced by a legally effective one coming as close as possible to the purpose of the ineffective provision.

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