

# General Terms and Conditions

for Deliveries and Services of ICT AG

## 1 SCOPE OF APPLICATION

- 1.1 In the absence of a separate agreement, all offers and orders concerning deliveries and services of ICT AG (ICT) shall be based on the present General Terms and Conditions for Deliveries and Services of ICT. This applies even in the event that, in the context of ongoing business relations, no express reference is made to these General Terms and Conditions for Deliveries and Services at a later point in time. Terms and conditions of the customer that are additional or contrary to or deviate from the present General Terms and Conditions for Deliveries and Services apply only if ICT recognizes their applicability expressly in writing.
- 1.2 These General Terms and Conditions for Deliveries and Services apply only in relation to entrepreneurs exercising their commercial or self-employed professional activities (§ 14 BGB German Civil Code) and in relation to legal persons under public law and special funds under public law (§ 310 para.1 German Civil Code).
- 1.3 To the extent referred to in the confirmation of the order by ICT or in other documents leading to the conclusion of contract, further General Terms and Conditions and Terms of Use of ICT may be applicable in addition to the present General Terms and Conditions for Deliveries and Services, especially the General Terms of Use for the Purchase or Lease of Software and the General Terms and Conditions for the Maintenance of Software of ICT. Within the limits of their respective scope of application, said General Terms and Conditions or Terms of Use shall take precedence over the provisions of the present General Terms and Conditions for Deliveries and Services.
- 1.4 Oral collateral agreements must in all cases be confirmed by ICT in writing to be effective.
- 1.5 Any rights that ICT is entitled to in accordance with statutory provisions and other agreements beyond those stated in these General Terms and Conditions for Deliveries and Services shall remain unaffected.

## 2 OFFERS, CONCLUSIONS OF CONTRACT

- 2.1 All offers submitted by ICT are subject to confirmation.
- 2.2 Orders shall not be deemed accepted until confirmed by ICT in writing or when the order is executed by ICT, in particular when ICT fulfils the order by delivery of goods or performance of service. Any confirmation of order created electronically which does not bear a signature and name shall be deemed to constitute the written form. The written order confirmation of ICT is decisive for the scope of delivery or service. Obvious errors such as typographical and calculation errors in the order confirmation shall not be binding upon ICT.
- 2.3 ICT reserves all rights without limitation in respect of all service and product descriptions, drawings, test programs, and other documentation supplied to the customer together with the offer or at a later point in time. This documentation may be made available to third parties only with the prior written consent of ICT. All product descriptions and technical data contained in such documentation as well as in brochures, advertisements, and other informative and advertising materials are compiled with due care; they do not constitute guarantees in respect of quality or durability, however, unless expressly identified as such. ICT reserves the right to carry out technically required changes even after the conclusion of the contract if such changes do not materially affect the agreed upon functions of the delivery item or object of the service and are reasonable for the customer.
- 2.4 The silence of ICT with regard to offers, orders, requests or other declarations of the customer does not imply approval, unless previously agreed in writing.
- 2.5 Should the financial situation of the customer significantly deteriorate or the reasonable request for the opening of insolvency or comparable proceedings against the assets of the client be rejected for lack of funds, ICT is entitled to completely or partially withdraw from the contract.
- 2.6 If ICT and the customer have agreed in writing upon a delivery or service on demand, the customer is obliged to retrieve the entire delivery quantity; and with regard to services, the entire performance, within a reasonable period and no later than three months after conclusion of the contract, unless otherwise agreed upon in writing.

### 3 PRICES, TERMS OF PAYMENT

- 3.1 Unless specified otherwise in the confirmation of the order by ICT, the prices according to the price list of ICT, as amended from time to time, shall apply. The indicated prices will be invoiced plus the applicable statutory VAT, in the case of deliveries of goods ex warehouse, including packing but excluding, in particular, the costs for installation or assembly, freight and transport insurance as well as customs duties and other public costs. Any travel costs and expenses incurred, as well as any waiting periods incurred by ICT for assembly and installation services, will be billed separately.
- 3.2 Invoices of ICT are payable immediately upon receipt without deduction. The customer shall be in default of payment if he fails to make payment in response to a reminder sent after the due date, but no later than 30 days after the due date and receipt of the invoice. In the event of a delay with payment, ICT shall be entitled to claim default interest at the statutory rate. ICT reserves the right to furnish evidence of greater damage caused by delay.
- 3.3 Notwithstanding no. 3.2, for international transactions, the payment will be made prior to delivery or performance, unless it has been previously agreed otherwise in writing.
- 3.4 Should the customer be in delay with payment, ICT is entitled – without prejudice to any other statutory rights – to exercise without prior notice a right of retention over all outstanding deliveries and services or to request advance payment and/or provision of security with respect to all outstanding deliveries and services. The same shall apply in the event that, after accepting the order, ICT obtains knowledge of facts that give rise to justified doubts about the customer's ability to pay.
- 3.5 Payment by bill of exchange or check is possible only on the basis of a prior written agreement. Bills and checks are accepted only on account of performance (erfüllungshalber); the point in time of payment shall be deemed the point in time the bill or check is collected, in the case of bill of exchange or check proceedings the point in time of release of liability. All costs and expenses for the discounting or collection of the bills of exchange shall be borne by the customer.
- 3.6 The customer may only set off against claims of ICT such counterclaims as are undisputed or binding under a final court judgment. The customer shall be entitled to exercise a right of retention only to the extent that its counterclaim is based on the same contractual relationship.

### 4 PASSING OF RISK, ACCEPTANCE, DELIVERY AND PERFORMANCE DATES, DEFAULT IN ACCEPTANCE

- 4.1 As regards deliveries of goods, the risk of accidental loss or accidental deterioration of the goods passes to the customer at the latest as soon as the goods leave the warehouse of ICT; if the goods are collected by the customer, the risk passes with the customer's notification of the goods being ready for collection. Shipment shall always occur at the customer's cost and risk. In the absence of the customer's written instructions, ICT will determine the manner of shipment. Transport insurance will be taken out only on the customer's written express instructions and at its own expense. Should there be a delay in dispatch due to circumstances for which the customer is responsible, then the risk passes to the customer upon notification that the goods are ready for dispatch. In this case, ICT is willing, however, to take out the insurance policies requested by the customer at the latter's cost.
- 4.2 The provisions of no. 4.1 shall also apply if assembly or installation of the delivered goods by ICT has been agreed upon, unless delivery, assembly and installation is performed under a works agreement (Werkvertrag), in which case the risk shall not pass to the customer before acceptance of the work. In the event of delay of acceptance as a consequence of circumstances within the responsibility of the customer then the risk passes on to the customer upon notification of readiness of acceptance.
- 4.3 Unless otherwise specifically agreed in writing, the indication of delivery and service periods or dates is not binding. Delivery and service periods or dates firmly agreed upon shall begin no earlier than upon receipt of ICT's confirmation of the order, however not before the timely and proper fulfillment of the customer's cooperation duties, especially not before provision of the documentation, approvals, or releases to be furnished by the customer and the receipt of the agreed down-payment; any such agreed delivery and service period or date shall be extended commensurately under the abovementioned circumstances.

Any agreed delivery periods or dates shall be deemed to have been observed if, at their expiry, the delivery item has left the warehouse of ICT or the customer has been notified by ICT of the delivery item being ready for collection and/or dispatch. The foregoing provision does not apply if, according to the contract, acceptance is required or ICT is obligated to carry out the assembly or installation. Compliance with agreed delivery and service periods is subject to proper, specifically timely self-delivery to ICT, unless ICT is responsible for the reason of improper self-delivery. In the event of improper self-delivery, ICT is entitled to withdraw from the contract. ICT must notify the customer without delay if ICT intends to exercise its right of withdrawal and must return any advance payments made by the customer.

- 4.4 The customer shall be entitled to rescind the contract upon unsuccessful expiration of a reasonable grace period set by the customer at the time of the default if ICT remains in delay with a delivery or performance of a service. The right of rescission requires that ICT be responsible for the delay. The customer shall be obligated to declare at ICT's request within a reasonable period of time whether it will rescind the contract after the expiration of this period due to the delay with the delivery or performance of service, or whether it will insist upon the delivery or performance of service.
- 4.5 In the event of unforeseeable significant operational breakdown (shortage of materials, shortage of energy, strikes) for which ICT is not responsible, official measures which make the fulfilment of ICT's obligations unreasonable difficult or temporarily impossible and other events of force majeure shall release ICT from the obligation to perform for the period during which the impediment continues to exist without being obligated to pay damages to the customer. This shall also apply if these circumstances occur to suppliers of ICT or when ICT is already in default. To the extent that ICT is released from the duty to perform, ICT shall grant back any advance payments made by the customer. ICT is entitled to rescind the contract after the expiration of an appropriate period when the fulfilment of the contract is of no further interest for ICT as a consequence of such impediment. At the request of the customer, ICT shall declare at the end of such period whether it intends to exert its right of rescission or whether it will deliver the goods or perform the services within a reasonable period.
- 4.6 Delivery in parts and provision of services in parts shall be permissible unless delivery in parts or provision of services in parts is unreasonable for the customer taking into account the interests of ICT.
- 4.7 If the customer is in default of acceptance, ICT is entitled to demand compensation for the damages incurred, unless the customer is not responsible for the non-acceptance of the goods, as well as compensation including any additional expenses. In particular, ICT is entitled to store the goods during the period of delay of acceptance at the expense of the customer. The cost of storage of the goods shall be calculated at a flat rate of 0.5% of the net invoice value for each commenced calendar week. Further claims of ICT remain unaffected. The customer is entitled to establish that ICT incurred significant lower costs or even no costs. The same applies if the customer breaches other obligations to cooperate, unless the customer is not responsible for such breach. ICT is entitled to dispose of the goods in another way upon unsuccessful expiration of a reasonable grace period set by ICT, and to make delivery to the customer within a reasonably extended grace period.

## 5 COPYRIGHTS, CONDITIONS OF USE FOR SOFTWARE PRODUCTS

- 5.1 The customer shall be obligated to observe such copyrights and other intellectual property rights as exist in respect of the delivered good or the work created in the context of performance, especially rights in respect of software.
- 5.2 In the event of a delivery of software of other manufacturers (Third-party Software), the customer shall be obligated to use the delivered software only in accordance with the applicable license conditions of the manufacturer and to impose the same duties on the buyer in the event of a resale of the Third-party Software, provided that such resale is permissible.
- 5.3 In addition to the present General Terms and Conditions for Deliveries and Services, the use of ICT standard software shall be subject to the General Conditions of Use for the Purchase or Lease of Software as well as the General Terms and Conditions for the Maintenance of Software of ICT as specified in the confirmation of the order by ICT. Within the limits of their respective scope of application, said General Terms and Conditions or Terms of Use shall take precedence over the provisions set forth in the present General Terms and Conditions for Deliveries and Services.

- 5.4 If software is individually developed on behalf of the customer or if individual adjustments are programmed (Individual Software), the customer will be granted a non-exclusive right of use with regard to the respective work result, unless individually agreed otherwise in writing. Besides, the use of such Individual Software shall be governed by the General Conditions of Use for the Purchase of Software in addition to the present General Terms and Conditions for Deliveries and Services.

## 6 RETENTION OF TITLE

- 6.1 As regards deliveries of goods, ICT retains title to the goods supplied until complete payment of the delivery price and until all further claims arising from the business relationship with the customer have been discharged in full, regardless of the cause in law. With respect to current accounts, the title retained is regarded as security for the offset balance of ICT at any time given.
- 6.2 In the event of a conduct on the part of the customer that is contrary to the terms of the contract, especially in the event of a delay with or imminent cessation of payment, bill protest, unsatisfactory information about the financial solvency of or compulsory enforcement actions against the customer or if a motion to open insolvency proceedings has been filed against the customer, ICT shall be entitled to take back and the customer shall be obligated to return the delivered goods. ICT is not required to rescind the contract in order to be able to take back the delivered goods and/or assert its retention of title. These acts, as well as the attachment of the delivered goods by ICT, do not constitute a rescission of the contract unless ICT has expressly declared so in writing. After taking back the delivered goods and after prior notice, ICT shall be entitled to sell or otherwise dispose of the same. The proceeds from such sale or other disposition, less reasonable costs thereof, shall be credited towards the customer's liabilities.
- 6.3 The customer shall be obligated, during the duration of retention of title, to treat the delivered goods with care and, at the request of ICT, to sufficiently insure the same against damage, with the insured sum being adequate to cover the replacement value. The customer must prove the existence of such insurance upon request of ICT. The customer assigns to ICT already now any claims it may have against the insurance company up to the amount of the underlying claims of ICT. ICT hereby accepts the assignment. In the event that such assignment is not permissible, the customer shall hereby instruct his insurance company to effect any payments only to ICT. Further claims of ICT remain unaffected.
- 6.4 In the event of attachments or other interventions by third parties in the goods subject to retention of title, the customer must immediately notify ICT in writing and provide all required information so that ICT can assert its title. Moreover, the customer must inform the third parties of the proprietary rights of ICT and cooperate with ICT in performing measures for the protection of the products subject to retention of title. To the extent that the third party is unwilling or not able to reimburse ICT for the judicial and extra-judicial costs incurred by ICT in connection with the enforcement of its property rights, the customer shall be obligated to pay compensation for the loss incurred by ICT as a result, unless the customer is not responsible for the attachments or other interventions by third parties.
- 6.5 The customer shall be entitled, subject to revocation by ICT, to process the goods supplied or combine them with other objects in the proper course of business. Any processing or combination shall be deemed to be made on behalf of ICT without commitment on the part of ICT. The customer's expectant right to the goods subject to retention of title shall continue to apply to the processed or combined item. In the event of such processing or combination of the goods subject to retention of title with other items not belonging to the customer, the customer shall give ICT co-ownership in the new item in the same proportion to which the invoice value of the goods subject to retention of title to the total of the invoice value of all other goods used including processing costs. In all other respects, the provisions applicable to the goods supplied by ICT subject to retention of title shall likewise apply to the item created through processing or combination.
- 6.6 The customer may revocably sell goods owned or co-owned by ICT only in the proper course of business dealings. In the event of resale, the customer assigns to ICT already in advance the claims arising against its purchasers or any third party in the amount of the respective amount of ICT's invoice for the goods resold (incl. VAT) plus a security surcharge of 10%. ICT hereby accepts the assignment. The customer shall be entitled to collect the claims assigned to ICT until revoked by ICT. The collected amounts shall be paid to ICT without delay. Upon request, the customer shall be obliged to inform the third party debtors of

the assignment to ICT without delay and to provide ICT with the information and documents required for collection without delay.

- 6.7 ICT may revoke the customer's right to process and combine the goods subject to retention of title (no. 6.5 above), the customer's right to resell (no. 6.6 above) and the right to collect (no. 6.6 above) for good cause, in particular if the customer defaults on payment to ICT or if the customer applies for the opening of insolvency proceedings or comparable proceedings for the settlement of debts against the customer's assets or if the justified application of a third party for the opening of insolvency proceedings or comparable proceedings for the settlement of debts against the customer's assets is rejected due to lack of assets.
- 6.8 The customer may not transfer to third parties the goods in which ICT has a title or co-ownership by way of security or pledge the same, may not assign the claims resulting from the resale to a third party or make an offset, nor agree a ban on assignment with its purchasers with respect to such claims. In the event of a global assignment by the customer, the claims assigned to ICT are to be expressly exempted.
- 6.9 If the realisable value of the security existing on behalf of ICT exceeds ICT's claims against the customer by more than 10% in total, taking into account customary bank valuation discounts, ICT shall be obligated to release the security exceeding this limit at the customer's request; the individual objects to be released will be chosen by ICT.
- 6.10 In the event of deliveries to other jurisdictions in which the foregoing arrangements governing the retention of title do not have the same effect as securing rights as in the Federal Republic of Germany, the customer hereby grants ICT a corresponding right of security. If further action for this purpose is required, the customer shall do everything possible to create a corresponding right of security for ICT. The customer shall cooperate in all measures that are necessary and beneficial to the validity and enforceability of such corresponding right of security.

## 7 DEFECTS AS TO THE QUALITY OF DELIVERED GOODS OR PERFORMED WORKS

- 7.1 In the case of deliveries of goods, the customer shall carefully examine the delivered good without undue delay upon delivery, in as far as this can be reasonably expected also by a test use and give notice of defects to ICT promptly in writing, however no later than seven working days upon delivery of the goods or – in the case of hidden defects – within seven working days after their discovery or recognisability. The customer must describe any defects in writing in its communication to ICT.
- 7.2 Works must be accepted upon performance by the customer in writing and without undue delay; acceptance may not be refused due to insignificant defects. Works shall be deemed to be accepted if the customer uses or resells the work results or if ICT has set the customer a reasonable deadline for acceptance after completion of the work performance and the customer has not refused acceptance within this deadline, stating at least one defect.
- 7.3 In the event of defects of the delivered goods that are objected to in a timely manner after delivery, or defects of performed works that have been reserved upon acceptance or detected at a later point of time, the customer primarily has a claim for subsequent fulfillment within a reasonable period set by the customer. The way of subsequent fulfillment (removal of defect or delivery of new goods/new performance of works) shall be decided by ICT. The expenses necessary for this purpose, such as wage, material, transport, and travel costs, will be borne by ICT only to the extent that such expenses are not increased due to the fact that the delivery item or the object of the works has subsequently been brought to a place other than the agreed place of delivery or performance, unless such relocation is in accordance with the agreed use of the respective delivery item or object of the respective works. If the notification of defects is unjustified, ICT shall be entitled to claim compensation from the customer for any costs incurred by ICT in connection therewith, unless the customer is not responsible for the unjustified notification of defects.
- 7.4 If ICT decides upon the delivery of new goods for subsequent fulfillment, then ICT may request the customer return the defective goods delivered in accordance with the statutory provisions. If the customer is legally bound to provide ICT with compensation for use, then the parties herewith agree upon the following compensation for use:
  - Use of more than one to three months: 10% of the net sales value,
  - Use of more than three to six months: 20% of the net sales value,

- Use of more than six to twelve months: 30% of the net sales value,
- Use of more than twelve to twenty months: 50% of the net sales value.

The customer is entitled to establish that he has made no use or taken less benefit from the use of the defective delivery item. Obligation of the customer to pay compensation shall remain unaffected if no use has been made contrary to the rules of proper business, even though said use would have been possible.

- 7.5 If ICT is unable to render subsequent fulfillment also in the second attempt, the customer is entitled, at its own choice and without prejudice to possible claims for damages or for reimbursement of expenses, to demand a reduction of the agreed remuneration for the goods delivered or work performed by ICT (Minderung), to remedy the defect itself and obtain compensation for the necessary expenses (applicable for performance of works only) or to rescind the contract in accordance with the law. The same shall apply if the subsequent fulfillment otherwise fails, is unreasonable for the customer or is delayed beyond reasonable time limits for reasons for which ICT is responsible or insofar as ICT is not willing or able to provide subsequent fulfillment.
- 7.6 The right of the customer to claim for defects shall not exist if the defect is due to the modification of the delivered goods or work results by the customer without authorization of ICT, or if such goods or work results were not used according to the relevant product description or any other documents relating to the goods. The right to claim for defects shall likewise not exist for defects resulting from natural wear, wearing parts in particular, improper treatment, assembly, use or storage, heat, powerful electromagnetic fields, damp, dust or static charge as well as defects caused by an unstable power supply.
- 7.7 The customer shall comply with the specifications, instructions, guidelines and conditions in the technical instructions, operation or operating manuals and other documents of the individual delivery or service items. Claims for defects arising as a result of the breach of this obligation are also excluded.
- 7.8 ICT does not assume any guarantee, in particular no guarantee of quality or durability, unless individually agreed in writing.
- 7.9 The limitation period for claims of defects shall be one year after delivery (for deliveries) or acceptance (for works). The limitation period shall be five years in such cases where (a) the defective item delivered, which in accordance with its intended purpose, is customarily used for a building, has caused defects in the building or (b) the defects are in a building or (c) the defects results from a work that consists in the provision of planning and monitoring services for a building. The reduction of the limitation period to one year also applies to tort claims based on a defect of the delivered goods or the work performed. The reduction of the limitation period does not apply to the unlimited liability of ICT for damages resulting from a breach of guarantee or from injury to life, limb or health, for intent and gross negligence and for product defects or if ICT has assumed a procurement risk.
- 7.10 Warranty claims for used delivery items are excluded. Used delivery items are such items that have already been put into operation or have otherwise been in use prior to delivery to the customer. The liability of ICT in accordance with no. 9 remains unaffected.

## 8 DEFECTS OF TITLE / THIRD PARTY RIGHTS

- 8.1 ICT warrants within the limits of the statutory provisions that the goods delivered or the works performed by ICT are free of third-party rights that prevent the customer's use of such goods or works as agreed.
- 8.2 In the event that such rights are asserted by third parties, the customer shall inform ICT hereof without undue delay rights and grant ICT any and all powers and authorities necessary for purposes of defending the customer against the asserted rights of third parties.
- 8.3 If third party rights exist, ICT will be entitled, at its choice:
- to remove the third-party rights or their assertion that affect the use of the goods delivered or works performed as agreed by taking suitable measures; or
  - to modify or replace the goods delivered or works performed such that they no longer infringe third-party rights, if and the extent that such modification or replacement does not affect the warranted functions of the good or works.

- 8.4 To the extent that ICT fails also in the second attempt to take the measures according to no. 8.3 above within a reasonable period of time to be fixed by the customer, the customer may at its choice, without prejudice to possible claims for damages or for reimbursement of expenses, demand a reduction of the agreed remuneration (Minderung) or rescind the contract in accordance with the law. The same shall apply if the removal of the defect of title otherwise fails, is unreasonable for the customer or is delayed beyond reasonable time limits for reasons for which ICT is responsible or insofar as ICT is not willing or able to remove the defect of title.
- 8.5 With regard to the limitation-period for claims based on third party rights, no. 7.9 above shall apply correspondingly.

## 9 LIABILITY FOR DAMAGES AND REIMBURSEMENT OF EXPENSES

- 9.1 ICT shall be liable within the limits of the statutory provisions if the customer asserts claims for damages or for reimbursement of expenses that are based on willful misconduct or gross negligence or on non-compliance with written guarantees (including the assumption of procurement risk), as well as in the cases of culpable injury of life, body, or health.
- 9.2 In the case of slight negligence, ICT is only liable for breach of material contractual obligations. Material contractual obligations are those arising from the nature of the agreement and which are of particular importance for the purpose of the agreement. In case of breach of material contractual obligations by slight negligence, the liability of ICT is restricted to the foreseeable and typically occurring damage; claims for damages and for reimbursement of expenses shall in this case become statute-barred within twelve months. No. 7.9 shall remain unaffected.
- 9.3 In the event of a loss of data, ICT shall be liable at most for the expenses that would be necessary for reconstruction of the data if the customer had provided a proper data backup system.
- 9.4 Any further liability for damages or for reimbursement of expenses beyond the scope provided for in these General Terms and Conditions for Deliveries and Services shall be excluded, regardless of the legal nature of the asserted claim. The statutory liability for product defects shall remain unaffected.
- 9.5 To the extent that liability on the part of ICT is excluded or limited according to these General Terms and Conditions for Deliveries and Services, this shall likewise apply to the liability of the representatives of ICT as well as the persons employed for the fulfillment of its obligations and its vicarious agents, especially staff members.

## 10 PRODUCT LIABILITY

- 10.1 The customer shall not modify the delivered goods; in particular, he shall not modify or remove any existing warnings regarding risks in the case of improper use of the delivered goods. The customer shall indemnify ICT from product liability claims of third parties resulting from any breach of this duty, unless the customer is not responsible for the change in the delivered goods.
- 10.2 In the event that ICT has cause to recall a product or to issue an alert about the delivered goods as a result of a product defect, the customer shall use its best efforts to cooperate in all measures deemed necessary and appropriate by ICT and to support ICT, in particular with regard to the determination of the required customer data. The customer is obliged to bear the cost of the product recall or alert unless he is not responsible for the product defect and the resulting damage according to applicable product liability principles. Further claims of ICT remain unaffected.
- 10.3 The customer will inform ICT immediately in writing of any risks which come to his knowledge from use of the delivered goods and possible product defects.

## 11 PROTECTION OF CONFIDENTIAL INFORMATION

- 11.1 The parties hereby agree to keep strictly confidential all business secrets of the other party which become accessible to them in the context of the contractual relationship for the duration of five years from getting



access to such information, but not exceeding five years from the last delivery or performance of service, protect through appropriate and adequate measures and - unless required for the purposes of the agreement – to neither record nor disclose such information to third parties or exploit otherwise. In particular, the parties shall ensure that the business secrets of the other party are only made accessible to such employees and other staff and only to the extent that this is necessary to achieve the purpose of the contract. All items embodying business secrets are also subject to the duty of confidentiality. In particular, the receiving party is prohibited from obtaining the trade secrets embodied therein by reverse engineering a delivery item.

- 11.2 Business secrets are all information of a party which is designated as confidential or secret or which is otherwise recognisable as a business secret, in particular technical information (e.g. drawings, product descriptions, methods, techniques as well as inventions) and commercial information (e.g. price and financial data as well as sources of supply).
- 11.3 The confidentiality obligation shall not apply to business secrets that were individually known to the other party or generally known or accessible to the general public before entering the contractual relationship, or that becomes generally known or accessible to the general public thereafter without negligence on the part of the other party. The burden of proof rests with the other party.
- 11.4 The parties shall ensure by means of appropriate contractual agreements with their employees, other staff and third parties to whom the business secrets of the other party become accessible in accordance with no. 11.1 above that these are also obliged to maintain corresponding confidentiality.

## 12 DATA PROTECTION

- 12.1 The parties shall comply with the statutory provisions governing data protection, in particular the EU General Data Protection Regulation ("GDPR"), in the execution of the contract and shall require their employees to do the same.
- 12.2 The parties shall process any personal data received (names and contact information of the respective contact person) exclusively for the fulfillment of the contract and shall protect these with security measures in line with the latest state of technology (Art. 32 GDPR). The parties shall delete the personal data as soon as their processing is no longer required. Any statutory retention requirements shall remain unaffected.
- 12.3 Should a party process personal data on behalf of the other party in the context of the execution of this contract, the parties shall enter into a respective commissioned data processing agreement pursuant to Art. 28 GDPR.

## 13 CROSS-BORDER DELIVERIES, EXPORT CONTROL LAWS

- 13.1 In case of cross-border deliveries, the customer shall provide all necessary declarations to the competent authorities and shall undertake all necessary action in a timely manner for export from Germany and for import into the country of destination, and in particular shall obtain the necessary documents for customs clearance and meet the requirements of any applicable export control provisions or other restrictions concerning commercialization. Upon ICT's request, the customer shall be obligated to submit end user declarations which comply with the applicable provisions.
- 13.2 Cross-border deliveries are made only on the proviso that they do not conflict with any applicable national or international regulations, in particular export control regulations, embargoes or other sanctions.
- 13.3 Delays resulting from export control proceedings shall extend delivery times accordingly; delivery dates shall be postponed accordingly.

## 14 APPLICABLE LAW, PLACE OF PERFORMANCE, PLACE OF JURISDICTION AND SEVERABILITY CLAUSE

- 14.1 The legal relations between ICT and its customers shall be governed exclusively by the laws of the Federal Republic of Germany, to the exclusion of the provision of the United Nations Convention on Contracts for the International Sale of Goods.
- 14.2 The exclusive place of performance for both parties to the contract shall be Stuttgart.
- 14.3 If the customer is a merchant within the meaning of the German Commercial Code (Handelsgesetzbuch), a legal entity under public law or a special fund under public law, the place of jurisdiction is Stuttgart. However, ICT shall be entitled to sue the customer also at its general place of jurisdiction.
- 14.4 If any provision of these General Terms and Conditions for Deliveries and Services are completely or partially invalid or unenforceable or should there be a gap in these General Terms and Conditions for Deliveries and Services this shall not affect the validity of the remaining provisions. Instead of the invalid or unenforceable provision, such valid or enforceable provision shall be deemed agreed which approximates most closely the invalid or unenforceable provision. In the event of a gap, such provision shall be deemed agreed which corresponds to what would have been agreed for the purpose of these General Terms and Conditions for Deliveries and Services, if the parties had considered the matter earlier.

- - -