

General Terms and Conditions

1 Scope of Application

(1) Deliveries and services of DiIT GmbH are subject to the following Terms and Conditions unless otherwise agreed in writing. In addition, the General Terms and Conditions of DiIT GmbH are available under www.diiit.de/de/diiit_agb_eng and on the website of DiIT GmbH (www.diiit.de) under "Service" at any time and can be reviewed and printed by the Customer in a reproducible form at any time.

(2) Deviating General Terms and Conditions of the Customer shall be effective only - and insofar only for the affected case - if they are confirmed by DiIT GmbH in writing as an amendment to these General Terms and Conditions. The same shall apply for modifications and amendments of these General Terms and Conditions.

(3) Individual agreements expressly made on a case by case basis (including subsidiary agreements, amendments and modifications of these General Terms and Conditions) have precedence over these General Terms and Conditions in any case. In respect of the content of such individual agreements, a written contract or - in the absence of such contract - the written confirmation of DiIT GmbH to the Customer shall be decisive.

2 Prices, Terms of Payment and Delay

(1) All prices are ex works exclusive transport, packaging, insurance, customs duties, import and export duties as well as VAT. If the Customer wishes a special packaging, the additional costs shall be borne by the Customer.

(2) All prices are made in Euro.

(3) Additions and enhancements which are ordered with the respective basic unit are invoiced by the offered prices. In case of a subsequent order of hardware/software, an additional installation fee will be charged. Unless otherwise stated, costs for installation and for implementation will be invoiced separately. Additions and amendments shall be made in writing.

(4) Invoices must be paid without any deductions and are due within 14 days after receipt of the invoice by the Customer.

(5) In the event of a delay with payment, interests of 8 % have to be paid commencing on the due

date. Further deliveries may be withheld by DiIT GmbH until receipt of payment.

(6) The right to offset or the right of retention due to counterclaims not accepted by DiIT GmbH or not legally determined by a final judgment are excluded.

3 Deliveries and Services

(1) The offers of DiIT GmbH are subject to confirmation of DiIT GmbH and are without obligation. A contract is concluded only by written confirmation of DiIT GmbH, however at the latest by the acceptance of the delivery without any objection by the Customer and by the invoice made by DiIT GmbH. Oral subsidiary agreements shall not be effective.

(2) Notwithstanding the Customer's order, DiIT GmbH is entitled to deliver modified and adapted contractual products if it is reasonable and taking into account all relevant circumstances.

(3) Unless otherwise agreed, DiIT GmbH is entitled but not obliged to insure the goods supplied against all pertinent risks at the Customer's expense. This right as well as the assumption of transport costs shall have no influence on the passing of risk.

4 Right of Withdrawal of DiIT GmbH

DiIT GmbH is entitled to withdraw the individual contract or all contracts with the Customer if there are verifiable doubts of the liquidity or the credit-worthiness of the Customer.

5 Inspection Duty, Notice of Defect, Acceptance and Passing of Risk

(1) The Customer is obliged to inspect the deliveries without undue delay after the receipt, in particular but not limited to the software.

(2) Deficiency in title or material deficiency as well as excessive deliveries, incomplete deliveries or wrong deliveries ("Defects") must be notified without undue delay at the latest within eight days after receipt of the delivery in writing if they can obviously be identified or can be identified by the inspection referred from para. (1). Hidden Defects must be notified in writing without undue delay within eight days at the latest after identifying the Defect. If the notice of Defect is not submitted by Customer to DiIT GmbH within the time limit, the Customer is excluded to any claim for such Defects.

(3) An acceptance, if any, shall be deemed to have taken place unless the Customer claims Defects within 8 days after the receipt of the deliveries. Insofar as slight Defects are concerned, for example Defects not affecting the functionality of the products, the Customer is not entitled to refuse the acceptance. The risk of accidental destruction and accidental deterioration passes with the handover of the contractual product to the carrier, its agent or any person instructed by DiIT GmbH, in case of a direct delivery of DiIT GmbH to the Customer, the risk passes with the handover of the contractual product to the Customer. If the dispatch has been delayed without fault of DiIT GmbH or the dispatch is impossible, the risk passes with the notice that the delivery is ready for dispatch to the Customer. The same shall apply in case of deliveries made after remedy of Defects or services against payment.

6 Retention of Title

(1) Title to the goods shall remain with DiIT GmbH until all the claims against the Customers have been fully settled. If the delivered products are software products, the Customer is entitled to use the software only after full payment. The Customer is obliged to keep the products which are in the ownership of DiIT GmbH in custody with due diligence and to insure them sufficiently.

(2) The Customer hereby assigns to DiIT GmbH any receivables arising from any resale in the amount of the gross invoice amount with all subsidiary rights. If DiIT GmbH is co-owner of the resold product, the assignment of the receivable shall cover the amount which corresponds to the co-ownership share of DiIT GmbH. DiIT GmbH hereby accepts the aforementioned assignments.

(3) The Customer shall be entitled to sell and to use the retention of title goods only in the ordinary course of business and only under the condition that the receivables assigned to DiIT GmbH as referred from para. (2) are actually transferred to DiIT GmbH. The Customer is not allowed to make further disposals of the retention of title goods. The Customer is not entitled to pledge the retention of title goods or to transfer them as security. The Customer is authorized to collect the receivables assigned to DiIT GmbH until DiIT GmbH revokes such authorization. Once this authorization is revoked, the Customer has to disclose the assignment to its customer.

7 Fulfilling of the Order

(1) If necessary, or if so required by the Customer, all work may be fully or partially carried out on the premises of the Customer, provided that the Customer will bear any additional expenses that may arise. Travel times for journeys to and from the Customer's premises are counted as working time. The Customer shall provide all necessary test data according to schedule before the end of program development.

(2) The tested programs and any other work will be handed over to the Customer and shall be accepted by him without undue delay. The same shall apply in the case that the Customer has failed to provide testing data. Acceptance of the products will be recorded by a protocol signed by both contracting parties. If no protocol is signed and/or if the Customer is silent, the products are considered to be accepted by the Customer after a period of four weeks after the hand-over.

8 Use of Software

The purchase of software entitles the Customer to use the software on the computers on which the software was installed by DiIT GmbH. Unless otherwise agreed, the license of software is not sublicensable and not transferrable.

9 Obligation of the Customer to Cooperate

The Customer will appoint a contact person who is available for necessary information and decisions. The Customer is obliged to contact the contact person to the extent required to fulfil the contract. The Customer is obliged to provide support to DiIT GmbH which is necessary to fulfil the contract.

10 Installation

(1) If installation is part of the subject matter of the contract, the Customer will be responsible to provide at the time of delivery a suitable site for the delivery and access to connection as intended. The Customer will provide for the in-house transportation to the place of installation and will appoint a person in charge of the system as well.

(2) The Customer is required to arrange in accordance with the ordered products for sufficient and adequate supply of materials, such as cables, fittings, racks and so on. If the Customer fails to supply the installation services as required and in accordance with the contract, DiIT GmbH reserves

the right to withdraw the agreements on installation. This will not affect the validity and continuity of the agreed delivery arrangements.

11 Warranty/Guarantee/Liability

(1) DiIT GmbH will perform all standard work with due diligence and expertise.

(2) The deliveries are free from Defects if they correspond to the specifications and requirements in the respective order confirmation. DiIT GmbH does not provide any warranty for the functionality of the delivered products or for a specific or usual use of the products.

(3) In case of a Defect, DiIT GmbH is only obliged to remedy the defect product within twelve months after the handover. The remedy within the warranty is free of charge if DiIT GmbH is responsible for the Defect, the Customer proves evidence that the Defect was caused by circumstances existing prior to the passing of risk and provided that such Defect was duly notified pursuant to No.

(5) of the General Terms and Conditions. If the remedy fails twice, the Customer is entitled to withdraw the contract or to reduce the purchase price.

(4) If the Defect is based on circumstances which DiIT GmbH is not responsible for, DiIT GmbH will invoice its effort at applicable rates. Incidental travel costs are charged to the Customer on an hourly basis.

(5) For damages relating to injuries to life, body or health caused by a Defect, in case of the willful or grossly negligent breach of duty and in case DiIT GmbH has fraudulently concealed the Defect, DiIT GmbH is liable for 24 months pursuant to No. (12) of these General Terms and Conditions commencing with delivery of the products.

(6) The warranty is only applicable for the normal use and for the indicated purpose of the products. The warranty is not applicable if the products or part of the products are modified without written consent of DiIT GmbH or if they are used under extreme or electrical environment. Furthermore, the warranty is not applicable if the repair or the replacement of products or parts of the products has become necessary due to an accident, gross negligence and/or improper use by the Customer or for any reasons except of the normal use.

(7) The warranty is only applicable for the first Customer at the place of delivery. In case of a modification of the location or a resale of the system, the warranty will expire unless DiIT GmbH has given its prior consent to the transfer of the warranty after notification by the first Customer.

The first Customer has to bear the expenses for the inspection of the new location.

(8) DiIT GmbH is not liable for profitable usability of the work results.

12 Compensation for Damages

(1) Unless otherwise agreed in these provisions, all claims to compensation of the Customer of whatsoever nature or howsoever arising as well as claims for compensation of expenses and indirect damages are excluded. This shall apply in particular but not limited to claims relating to all breaches of duties resulting from the contract as well as from unlawful act. The preceding exclusion of liability is also applicable for claims of compensation of the Customer against DiIT GmbH in the event that the contract is terminated due to delay (withdraw) as well as in the event that the fulfilment of the contract has become subsequently impossible caused by DiIT GmbH. This provision applies also if DiIT GmbH uses employed executive personnel or other persons in performing its obligation.

(2) DiIT GmbH including its employed executive personnel or other persons in performing its obligation is only liable for damages in the event that:

- (a) DiIT GmbH has acted with intent or gross negligence,
- (b) DiIT GmbH fraudulently has concealed the Defect or has guaranteed the quality of the product,
- (c) Damages for injuries to life, body or health occur for which DiIT GmbH is responsible,
- (d) DiIT GmbH does not fulfil its substantial contractual obligations ("cardinal duties") endangering the purpose of the agreement as a whole that is (aa) in the event of material violation duties which jeopardize the achievement of contractual purpose, or (bb) in the event of the violation of duties - the fulfilment of which enables the proper performance of the contract in the first place and on the observance of which a Customer may regularly rely ("cardinal duties").

In the event that DiIT GmbH does not fulfil its cardinal duties as defined in No. (12) para. (2) lit (d) of these General Terms and Conditions, the liability of DiIT GmbH shall be limited in case of slight negligence to the typically foreseeable damage.

(3) The exclusion of liability does not apply for claims arising from the Product Liability Act. The preceding provisions shall not affect the burden of proof to the detriment of Customers.

13 Development Request

In the fulfilment of contracts requiring special development by DiIT GmbH, the Customer is not entitled to any rights of invention for developed items/solutions nor to the facilities used in the creation of these items/solutions even in the case of the Customer bears in part or all of the development costs.

14 Program Material

All programs, procedures and algorithms developed and designed by DiIT GmbH for the operation of DiIT GmbH systems are intellectual property of DiIT GmbH. Any passing on of all or part of the software to a third party is prohibited without the written consent of DiIT GmbH. DiIT GmbH reserves the right to claim damages in the event of any unauthorized passing on of systems, specific programs or parts of them or copies thereof.

15 Place of Fulfilment, Place of Jurisdiction and Applicable Law

Place of fulfilment and place of jurisdiction for both parties is Munich, Germany. The respective contract is governed by the laws of the Federal Republic of Germany. For deliveries and services rendered abroad, the application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

16 Final Provisions

In the event that the preceding provisions are invalid or become invalid, then the validity of all other provisions shall thereby not be affected. In such case the invalid provision shall be automatically substituted by a valid provision which comes as close as possible of the invalid provision. The same applies in case of gaps.