

## GENERAL TERMS AND CONDITIONS of VENMATEC GmbH

This TERMS AND CONDITIONS are drafted in the English language, but shall be subject to and interpreted in accordance with German law. As a reason of this, if an English word is followed by a German term in brackets, the meaning of this German term as it has according to the German law shall be decisive to interpret the respective English word throughout the whole TERMS AND CONDITIONS.

### 1. Validity

(1) The following TERMS AND CONDITIONS shall apply exclusively and solely to and for entrepreneurs as contemplated in § 14 BGB [German Civil Code], legal entities under public law, or public separate estate properties. They shall not apply for legal relationships with consumers as contemplated in § 13 BGB [German Civil Code].

(2) All our quotations, deliveries and services, including advisory services, shall be made exclusively subject to these TERMS AND CONDITIONS. Conditions of the customer and divergent agreements shall only become valid if they have been confirmed in writing by us.

### 2. Scope of the deliveries and services

(1) All our quotations are always subject to confirmation. An order of the customer has to be confirmed by our written order confirmation to make it legal and binding. If the customer cancels a confirmed order we are allowed to claim compensation for the costs of the cancellation and loss of profit of 10% of the sales price. The customer is allowed to prove that no claims or less claims are made.

(2) Our written order confirmation is decisive for the scope of the deliveries and services. Obvious errors, typing or printing errors and miscalculation do not bind us. Verbal agreements and subsequent contractual amendments are binding only if they have been confirmed by us in writing, by fax or email. Any costs arising from subsequent amendments of an order, for which we are not responsible, shall be borne by the customer.

(3) Proper technical and formal changes of the ordered goods shall remain reserved as far as the technical function, the normal use and the value of the product is thereby not affected or is merely affected insignificantly. If such change should perhaps cause the acceptance to become unreasonable for the customer in the individual case, he can withdraw from this order. Further reaching rights shall be excluded.

(4) The information contained in flyer, brochures, description, drawings, illustrations and price lists will not determine the nature of the delivery item unless these are expressly incorporated, by reference to the specification, in our order confirmation. The appropriate technical acceptance- and safety regulations of Germany shall, as for the remaining issues, be exclusively authoritative for our deliveries.

(5) If any test or configuration software will be supplied with our equipment, it is delivered solely for testing purposes and without any warranty (Gewährleistung). We are not liable for the further development of the test software or use of parts of this software. Any information provided regarding this or for the customer's own developments is not binding and without any obligation for us.

(6) Our developments are made subject to a charge, as well as always without engagement of implementation. In the event of unexpected, uncalculated or unreasonable additional expenses, we reserve the right to a partial or alternative solution or the abandonment of the development. Claims for damages and damages for non-performance by the customer shall be excluded. This shall also apply to any orders concerning the question of realisability of the projects with our products (e.g. feasibility studies).

### 3. Prices

(1) Our prices are net ex works, excluding packing costs and plus the value added tax applicable at the time. Cost of packaging is invoiced separately. Prices shall be indicated in Euro.

(2) Packing and packing material will be taken back by us. The customer shall bear the costs of return - transportation. The return of packings of every kind shall be excluded for all deliveries outside of Germany.

(3) If nothing to the contrary has been agreed, then the prices quoted by us shall be subject to alteration. We shall be entitled to adequately adjust or to increase the prices if our supplier increases his selling prices, if not merely insignificant price increases occur due to a change of exchange rates, of customs duties or similar fiscal charges, changed costs (particularly cost of labour, cost of materials and distribution costs) or if there is a period of time of more than four months between the order confirmation and the delivery or if a frame contract is signed.

### 4. Terms of payment

(1) Payments shall be made within 10 days as of date of invoice without discount to our bank account. Bills of exchange shall only be accepted on the basis of express

agreement, and – just like cheques – only in lieu of payment and under reservation of acceptance in the individual case. Discount charges and other expenses shall be borne by the customer.

(2) In the case of a delay in payment of the customer, the customer shall, notwithstanding the assertion of further damage claims, pay interest in the amount of 9% points above the base interest rate of the Federal Bank of Germany on the unpaid demand. If the customer is in default with payment, all accounts receivable shall become due immediately, unless the customer provides evidence that he is not responsible for the delay.

(3) If an essential deterioration of the assets / pecuniary circumstances and/or of the standing regarding liquidity of the customer should occur, or if such circumstances already on hand before the conclusion of contract should become known afterwards, then we shall, as we may select in our own discretion, be entitled to either withdraw from the contract, or to demand immediate cash payment of all invoices remaining unpaid, even if the invoice amounts have previously been completely or partly deferred or paid by bill of exchange. Particularly any poorer credit standing classification of a credit rating service, the protest of a bill or cheque, any distress or garnishing, suspension of payments, the instigation of insolvency proceedings, as well as if such insolvency proceedings are rejected for lack of mass, shall be considered as such deteriorations. In case we should perhaps not withdraw from the contract in spite of the occurrence of any deterioration of the financial standing, then we shall only deliver under concurrent conditions against immediate payment, for larger orders only against cash in advance.

### 5. Delivery time and delay in delivery

(1) In as far as nothing to the contrary has been agreed, our delivery dates and delivery periods stated in the offers shall be understood as temporary and not yet obligatory and binding estimates. If obligatory delivery dates and delivery periods have been agreed, then these shall be regarded as adequately prolonged, if they cannot be met because of circumstances lying beyond our control. A period of one month shall, with regard to the technical complexity of the delivery products, be generally regarded as adequate for the prolongation, provided that a shorter or longer period has not been agreed in writing in the individual case under consideration of the mutual interests.

(2) Compliance with the delivery period indicated by us for the goods and services requires prompt receipt (at least 14 days prior to the delivery period) of all the documents and data to be supplied by the customer and other obligations of the customer. If these conditions are not satisfied on time, the delivery period will be extended by the period of delay. In this case, the assertion of claims for delay damage shall be excluded. This clause also applies for the delivery dates.

(3) The deadlines shall be considered observed:  
a) for delivery without installation or assembly, if we notify readiness for dispatch within the agreed deadline for the supply of the goods and services. If the delivery is delayed for reasons for which the customer is responsible, the deadline shall be considered observed when readiness for dispatch is notified within the agreed period;  
b) for delivery with installation or assembly, as long as this is undertaken within the agreed period.

(4) If there is evidence for non-compliance with the deadline for the delivery of goods or services as a result of force majeure, labour disputes, incidents on transportation routes, official orders, strikes, lockouts or other events, which exacerbate delivery to a considerable extent, the deadline shall be extended within a reasonable time. This shall also apply if these circumstances occur at our supplier. If the delivery of the goods or services becomes impossible for the above-mentioned reasons, we shall be released from the obligation to supply the goods or services. In this case, we shall inform the customer immediately of the impossibility to deliver and refund any counter performance, which has already been received.

(5) In the event of a delay, for which we are culpable, the customer may claim compensation for damages amounting to 0.5% for each complete week of the delay, however, in total up to a maximum of 5% of the sum of the order if he makes a plausible case for the occurrence of a loss. The right of cancellation for the customer after the unsuccessful expiry of a period of grace granted to us shall remain unaffected.

### 6. Passing of risk and dispatch

(1) Deliveries will be made EXW Bielefeld (Incoterms 2010). The risk of loss or damage to the goods passes to the customer when the goods are handed over to the first carrier for transmission to the customer, however at the latest when the goods have left our plant or warehouse, also if partial deliveries are being made. This shall also be valid irrespective of the dispatching the goods from the place of performance or who pays for the freight charges. If the dispatch or the delivery is postponed upon the request of the customer or for reasons lying beyond our responsibility,

then the risk shall pass on to the customer at the time of notification of readiness for dispatch.

(2) In case of dispatch or delivery by a carrier commissioned by the customer and if dispatch or delivery is delayed for reasons lying beyond our responsibility, the customer may be charged storage fees of 0.7% per month, beginning one month after notification of readiness for dispatch, however, in total up to a maximum of 5% of the sum of the order. Evidence of higher or lower storage costs shall remain reserved for the contractual parties.

(3) The customer is obliged in taking over the goods even if the goods have insignificant defects.

### 7. Installation, assembly and start-up

(1) The following provisions shall apply to any type of installation, assembly and start-up:

- a) The customer shall bear the costs and provide in sufficient time:  
- all the required additional specialist staff with the tools required. We are not liable for this staff.  
- all preparatory extra work, including any required materials,  
- all the required goods and materials for the installation, assembly and start-up such as scaffold, lifting gear and other equipment.  
b) Prior to the start of the installation work, the customer shall make available unrequested the necessary information regarding the location of hidden electricity lines and gas and water pipes and monitor these during the installation process.  
c) If the installation, assembly or start-up are delayed owing to circumstances for which we are not responsible, the customer shall bear the costs to an appropriate extent for waiting times and additional journeys required by our staff undertaking the installation or assembly.  
d) We are not liable for the work of our staff undertaking the installation, assembly or start-up and other agents, insofar as the work do not relate to the delivery and installation, assembly or start-up or insofar as this has been arranged by the customer.

(2) Except as otherwise agreed the following provisions shall apply for the payment of the installation, assembly and start-up:

- a) The customer shall compensate us for the working hours and supplementary costs for overtime, work at night, on Sundays and public holidays at the cost rates agreed when the order was placed.  
b) Additional travel costs and expenses and subsistence costs will be charged at costs with receipts provided to the customer.

(3) The other clauses of these GENERAL TERMS AND CONDITIONS shall apply accordingly.

### 8. Retention of title

The delivered goods shall remain our property until the complete fulfillment of all our claims against the customer, to which we are entitled from the business connection. This shall also apply to claims, which are still subsequently acquired as a result of repairs and deliveries of spare parts as well as other services.

### 9. Warranty against defects (Gewährleistung)

(1) The customer must examine the delivered goods immediately upon receipt and shall notify us of recognizable defects in writing (also fax and email) within a period of 5 working days after delivery. § 377 HGB [German Commercial Code] shall be applicable.

(2) The nature and quality of the product to be delivered by us is finally described by our written order confirmation and/or our specification. In as far as nothing else has been agreed in writing, the usage as stipulated in our order confirmation shall constitute the only contents of the contract. We warrant (gewährleisten) that the hardware, software and documentation supplied by us have the agreed condition and are free of defects. No warranty (Gewährleistung) will be taken of irrelevant deviations. The customer is aware that it is not possible - given the current state of the art - to create completely defect-free software. Defects not impairing the agreed use or application according to the contract are irrelevant.

(3) Should the delivered goods not be free from defects, provided that the defect was already on hand at the time of the passing of risk and subject to the customer notification of such defect in due time, we may at our choice be entitled to supplementary performance either in form of remedy or delivery of conforming goods within an adequately period. The necessary costs will be borne by us. Additional costs caused because the place of delivery given by the customer is subsequently altered will not be covered unless the transfer is according to a customary usage of the goods.

(4) In case of two unsuccessful attempts to remedy the same defect, the customer may at his own choice either demand a reduction in the purchase price or withdraw from the contract. In addition the customer may claim damages if appropriate. The right to withdraw from the contract may be

exercised only insofar as the defect is not simply trivial (if the costs for the remediation of the defect is less than 5% of the purchase price a trivial defect is proven). If only a part of the delivered goods is defective the customer may withdraw from the contract in whole if the remaining faultless part of the delivered goods would be demonstrably useless for him.

(5) The customer shall, in as far as he has asserted claims against us with respect to warranty, be obliged to either, as we may select in our own discretion, send the unsatisfactory products back to us freight paid, or to have them ready for inspection and examination of defects at the place of his branch office.

(6) The customer shall have no right to warranty claims:

a) with respect to software, if:

- the software supplied by us is not executable although it meets the requirements specified in the scope of work, and this for reasons not lying in the software we have agreed to supply;
- the software is not ready for use because the interface has not been exactly defined by the customer;
- the software is not executable because the capacity of the customer's hardware is not sufficient, although appropriate information and advice has been provided by us;
- the software is not executable because the computer used by the customer does not have the performance characteristics we have specified;

b) with respect to hardware, if:

- there are defects due to wear and tear;
- there are defects due to improper handling, manipulation or vandalism or overused by the customer or any third parties;
- there are defects due to chemical, electrochemical, electronic or electric influences or due to other exterior influences;
- the delivery item is modified by the customer or third parties, or through incorporation of components purchased through third-party sources, unless there is no causal link between the defect and said modification.

If it turns out that the defect is due to a circumstance which does not obligate us to perform under warranty, customer shall indemnify us for any and all costs arising therefrom.

(7) Customers claims for defects are subject to a limitation period of 12 months starting from delivery. This is not the case insofar as longer periods are legally stipulated. The limitation period of 12 months is not applicable when we have committed intent or gross negligence or in case of physical damage, damage to health or loss of life which is attributable to us.

(8) Claims for damages of defects are limited as follows:

We are not liable for a slightly negligent violation of immaterial contractual obligations.

Our liability is excluded except in cases of intent, gross negligence or breach of material contractual obligations. Insofar as we are liable for negligent violation of material contractual obligations our liability is limited to foreseeable damages normally covered by the contract.

The customer's claims arising out of injury of life, body or health which are attributable to us or our vicarious agents shall not be covered by the limitation. The limitation of liability does also not extend to customer's claims based on the German Product Liability Act (Produkthaftungsgesetz) or on the fraudulent concealment of a defect.

#### 10. Defect of title (Rechtsmängel)

(1) If a third party asserts claims for damages against a customer for infringement of industrial property rights, copyrights, ancillary copyrights or imitation of product caused by our deliveries and services, the customer is required to grant us a reasonable period of time to rectify the defect of title, as a rule one month. An infringement of industrial property rights and/or copyrights and/or ancillary rights and/or imitation of product on our part is not given, if the holder of these industrial property rights and/or copyright and/or ancillary rights entitles us within a reasonable period of time determined by our customer to grant our customer the right to use the delivery items for the purpose provided in the contract. If this is not possible on terms and conditions which are fair and reasonable or within a reasonable period of time, the customer shall be entitled to withdraw from the contract. Under the aforementioned conditions, we, too, shall have a right to withdraw from the contract.

(2) The customer is only deemed to have brought evidence of the infringement of industrial property rights, copyrights, ancillary copyrights and imitation of product once a legally binding judgement has been pronounced against him in this matter. This regulation does not affect the right of the customer to serve third party notice on us.

(3) Liability for infringement of industrial property rights / copyrights / ancillary rights or imitation of product is governed by clause 9. of these GENERAL TERMS AND CONDITIONS.

#### 11. Liability, limitation of liability

(1) The subsequent limitations shall apply to our contractual and non-contractual liability and for culpa in contrahendo. The onus of proof for a limitation of liability or for facts leading to an exemption from a liability shall be with us.

(2) For material damages and financial loss being caused by negligence we and our vicarious agents are only liable in case of breach of material contractual obligations however our liability is limited to foreseeable damages normally covered by the contract.

We are not liable for the negligent breach of immaterial contractual obligations.

(3) The limitation of liability shall not apply if we are liable in the case of intent or gross negligence or for injury of life, body or health.

#### 12. Industrial property rights, rights of use

(1) Title to the industrial property rights, copyrights and ancillary copyrights remains with us even after resale of the delivered goods. The property rights and copyrights in any documents of us will at all times remain exclusively with us. The customer has no right to use and/or exploit these documents. This also applies for the processing, use and distribution of said documents - and excerpts therefrom - to third parties.

(2) We hereby grant the customer a non-exclusive, non-transferable right, unlimited in time, to use the software supplied to him in accordance with its intended use or application as communicated to us, subject to the provision stated hereafter.

The right of use and exploitation is limited to the specific purpose of the software.

The customer shall have no further rights of use and exploitation or other rights in the software.

#### 13. Obligation regarding the disposal of electronic equipment

We are obliged to take back goods supplied to the customer once they have come to the end of their life and to dispose of them in accordance with legal guidelines at our costs. All costs incurred for removal, packaging and transportation of the goods back to our place of business are borne by the customer. If required by the customer, we are willing to provide the customer with addresses of suitable waste disposal companies, so that if the customer so wishes, he can make his own arrangement for disposing of his goods directly at his own costs. This clause applies only for deliveries within the EU.

#### 14. Final provisions

(1) Place of performance for the mutual performances owed from the contract shall be our place of business, Bielefeld.

##### (2) Arbitration clause

All disputes arising in connection with this contract or its validity shall be finally settled in accordance with the Arbitration Rules of the German Institution of Arbitration (Deutsche Institution für Schiedsgerichtsbarkeit e.V., DIS) without recourse to the ordinary courts of law.

The place of arbitration is Berlin.

The number of arbitrators is three.

The language of the arbitral proceedings is English.

(3) The applicable substantive law is German law.

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