

Standard terms and conditions

Diener electronic GmbH & Co. KG

AS OF 12.10.2023

1 Scope

Our supplies and services are provided exclusively based on the following Standard Terms and Conditions (the "Terms") valid as of the date of conclusion of the contract. These Terms shall also apply to future business relationships even if not explicitly referred to.

2 Exclusive application

- 2.1 These Terms apply only in business relationships with enterprises in the sense of Section 14 sub-section 1 BGB (German Civil Code) or legal entities under public law or special funds under public law. An entrepreneur in the sense of Section 14 BGB is a natural or legal entity or a partnership with legal capacity who resp. which acts in the exercise of their commercial or independent professional activity when concluding a legal transaction. These Terms shall not apply in legal transactions with consumers in the sense of Section 13 BGB.
- 2.2 Conflicting terms and conditions of the customer shall only be valid if we expressly agree to their validity in writing. This requirement of consent shall apply in any case, for example also if we perform the service to the customer without reservation in full knowledge of the customer's standard terms and conditions. If the customer does not agree, he resp. it must inform us immediately in writing. In this case, we reserve the right to cancel our quotation if applicable.
- 2.3 Individual agreements made with the customer in individual cases (including ancillary agreements, supplementary regulations and amendments) shall in any case take precedence over these Terms.

3 Quotation / Conclusion of contract / Object of delivery and service / subcontractor

- 3.1 Unless otherwise agreed or specified in our quotation, our quotations are subject to change without notice. A contract is only concluded with our order confirmation or our delivery or invoice for the customer's legally binding order. If we submit a quotation designated as binding, the contract shall be concluded upon acceptance of the quotation by the customer. Unless specified otherwise in the individual case, we shall be bound by a binding quotation for 6 weeks.
- 3.2 The respective delivery and service item (hereinafter referred to as "Subject Matter of the Contract") is defined exclusively by the delivery note and/or our confirmation of the binding order based on our non-binding quotation or from our binding quotation confirmed by the customer. The quality of the Subject Matter of the Contract to be provided by us is exclusively based on the written contractual documents. The references to technical standards and other information (e.g. weight, dimensions, values in use, load capacity, tolerances) as well as the representation (e.g. drawing, illustrations) contained in our cost estimates, product data sheets, drafts, prototypes and other offer documents are only approximates and do not claim to be complete. This information serves only to describe the performance and does not contain any warranty promises, in particular no guarantee of quality or durability. Such information shall be binding if reference is expressly made to it in writing in the contract negotiations and if it is expressly designated as binding or if an exact conformity is the precondition for the suitability for the contractually intended purpose.
- 3.3 We can also have third parties provide the contractual services owed by us, unless the customer has substantiated objections against the third party.
- 3.4 Pursuant to the statutory provisions, obvious errors, typos, printing or calculation errors are not binding for us. The customer is obliged to inform us of such errors so that we can correct them.
- 3.5 Insofar as we made recommendations for the use of the Subject Matter of the Contract, these have been made to the best of our knowledge. Due to the multiple application options, different requirements and individual conditions during use, however, we do not warrant for the suitability of the Subject Matter of the Contract for a specific application, unless we explicitly confirmed such suitability in writing. The customer is generally obliged to check himself/itself that the Subject Matter of the Contract is suitable for the intended use.
- 3.6 In the case of repair orders, billing is generally carried out in flat fees. If the device is delivered without prior agreement, there is no entitlement to a quote / offer, but will be charged after the repair with the flat fees determined by us.

Estimates / offers are for information purposes only and do not contain any different flat fees.

4 Customer's duty to cooperate / Mounting, installation and commissioning / acceptance inspection

- 4.1 The customer is liable for the correctness of the documents and in particular drawings and samples provided to us by customer for the completion of the contract. Furthermore, the customer shall procure any required approvals in good time and announce releases.
- 4.2 The customer ensures that we receive the rights required for using these materials pursuant to para. 1, and that he/it is in possession of the necessary rights in the materials provided to us. In case of intellectual property rights infringement due to our use of the materials provided to us by customer, the customer shall hold us harmless at first request of any and all third-party claims for damages.
- 4.3 Unless agreed to the contrary in writing, the following regulations apply to the installation and mounting of the delivered Subject Matters of the Contract:
 - a) The customer shall procure the following items/services at his/its own expense and make them available to us in good time:
 - i) required special equipment not commonly used in our line of business and the appurtenant parts, if applicable also appropriate premises for storing material;
 - ii) competent staff with the required knowledge in particular of the framework conditions for installation or mounting at the customer's;
 - iii) protective equipment and clothing, if required due to the specific circumstances of the installation site but not commonly used in our line of business.
 - b) If the Subject Matter of the Contract has been delivered to the customer at an earlier date, the parts to be installed or mounted must be at the installation or mounting site at the agreed date, and any necessary preparatory work must be completed or at least have progressed so far that we can immediately start on the work owed by us.
 - c) In the event of delay installation, mounting or commissioning not attributable to us, for example due to violation of customer's obligation to cooperate, the customer shall compensate us for any costs for waiting time and additional travelling time of the mounting or installation staff reasonably incurred by us.
 - d) If we agreed on an individual settlement for the installation and mounting work owed by us, the rates of our current price list shall apply. We furthermore are entitled to receive compensation for our expenses, in particular reasonable travel and accommodation expenses.
- 4.4 Immediately following the detection of any defects, they shall be documented and reported to us by competent employees of the customer's in writing – subsequently if first reported by phone – as comprehensively as possible, specifying details of their occurrence and effects and, if the customer has any information about them, their potential causes.
- 4.5 If the work owed by us requires acceptance, the customer shall immediately declare acceptance in writing as soon as we have essentially completed to work owed by us or as soon as we request acceptance. Acceptance shall otherwise be deemed to have taken place unless the customer specifies in writing the reasons for refusing acceptance within 7 days of the essential completion of the service or of our request. Acceptance shall also be deemed to have taken place if the customer uses the services provided by us.

5 Delivery / passing of risk / dispatch / customs, taxes, export permits / packaging

- 5.1 Place of performance for our delivery obligation is D-72224 Ebhausen. Delivery is ex our works or warehouse. At customer's request and expense, the Subject Matter of the Contract will be dispatched to another destination. Unless agreed to the contrary, we have the right to decide on the type of shipment, in particular forwarder, transport route, and packaging. Shipment is always carried out at the customer's order and expense.
- 5.2 Partial deliveries are permitted if
 - the customer can use the partial delivery in the frame of the contractual intended purpose,
 - the delivery of the remaining ordered goods has been assured, and
 - and the customer will not incur therefrom considerable extra work or additional costs, unless we agree to cover such costs.
- 5.3 The Subject Matter of the Contract is shipped at customer's risk. If the shipment is delayed for reasons attributable to customer, the risk passes to the customer

already when the readiness for shipment is announced; otherwise, it passes when the Subject Matter of the Contract is handed over to the forwarder. Any return of the Subject Matter of the Contract shall be at customer's risk, unless returned for reasons attributable to us. There is no insurance coverage for the return of the Subject Matter of the Contract by us.

- 5.4 The customer is responsible for importing the Subject Matter of the Contract to its/his place of business. Any costs related to the import and all customs and taxes raised in connection with the import shall be borne by the customer. Any required import permits and other certificates or approvals called for by authorities for the purposes of the import or the simplification of import, or in respect of monetary payments pursuant to the contract, shall be procured by the customer.
- 5.5 Transport and other packaging cannot be returned. The customer shall provide for disposal of the packaging at its/his own expense.

6 Delivery periods and dates / partial deliveries and partial performance / modifications / quality risks and guaranteed quality / force majeure

- 6.1 The delivery periods agreed in writing start on the day of our order confirmation, but not before clarification of all technical and commercial details and provision of the permit, if required. Delivery periods for Subject Matters of the Contract to be delivered are deemed met if the Subject Matter of the Contract has left the works or warehouse before the end of the delivery period, or readiness for shipment has been announced.
- 6.2 Should the customer choose to modify the contractually agreed scope of the services to be performed by us, it/he shall submit the modification request in writing. We may refuse modification requests if we cannot reasonably be expected to implement them in the scope of fulfilling the contract. The customer shall pay for any costs resulting from the modification request. This includes in particular the examination of the modification request, the generation of a modification suggestion, and any downtimes. In the event that an agreement has been reached between the parties regarding hours or daily rates, the expenses shall be charged in accordance with these rates, otherwise in accordance with our price list valid at that time. Any modifications requested by the customer in the execution of the Subject Matter of the Contract shall extend the production and delivery period accordingly.
- 6.3 We only assume a quality risk in the presence of a separate written agreement with the use of the phrase "Diener electronic assumes the quality risk for ...". Therefore, the sole assumption by us of an obligation to deliver an item which is defined by its type only does not establish any assumption of a quality risk or a quality guarantee by us.
- 6.4 If, due to reasons not attributable to us and in spite of proper procurement, we receive our pre-supplier's deliveries not at all, incorrectly or delayed, or if force majeure events occur, i.e. impediments to performance through no fault of ours continuing for more than 21 calendar days, we shall immediately inform the customer. In this case, we have the right to postpone the performance for the duration of the impediment plus a reasonable starting time or to withdraw from the contract in whole or in part in respect of the unfulfilled part, provided we have met our duty to inform, have not assumed any procurement or manufacturer risk, and the impediment to performance is not temporary only. Force majeure includes strike, lockout, interventions by authorities, scarcity of energy and raw materials, transport bottlenecks through no fault of our own, operation impediments through no fault of our own, e.g. by fire, water and machine damage, and all other impediments which, judged objectively, have not been culpably caused by us.
- 6.5 When agreed delivery times are exceeded, delivery is considered delayed only after expiry of a reasonable grace period of at least eight work days specified by the customer in writing, unless the delivery time or date has been explicitly described as "fixed" in the order confirmation or quotation.

7 Right of non-delivery

- 7.1 Should the customer's financial situation deteriorate considerably after conclusion of the contract in such a way as to put our entitlement to compensation at risk, we have the right – if we are obliged to make advance deliveries – to refuse performance until compensation has been paid or a security for it has been established.
- 7.2 If the customer, despite receiving a respective request with a reasonable deadline, is neither willing to perform contemporaneously nor to provide security, we can withdraw from the contract. Setting a deadline is dispensable in particular if the customer earnestly and finally refuses performance or appears to be unable to perform also within the set deadline.

8 Third-party financing of the purchasing price

If third-party financing of the purchasing price is planned, we have the right to demand evidence of financing before delivery.

9 Special rental conditions

- 9.1 If a Subject Matter of the Contract is rented, the minimum rental period is specified in the quotation. The minimum rental period is 1 month from delivery. If the customer fails to return the rental item by the end of the agreed rental period, the rental contract is extended until the return of the Subject Matter of the Contract.
- 9.2 The customer as renter is obliged to return the rented Subject Matter of the Contract to us free of charge at expiry of the rental period. The Subject Matter of the Contract shall be returned in the packaging/wooden crate enclosed in the delivery, or a similar sturdy, transport-safe packaging. The customer shall be liable for transport damages due to non-compliance with the packaging instructions.
- 9.3 The rent is owed as long as the rental item is in the customer's possession. The charge for calendar day is as specified in our quotation or delivery note.
- 9.4 Unless agreed to the contrary, the customer can give statutory notice of termination for the rental contract with a period of one day after expiry of the agreed minimum rental period. The customer can also terminate the rental contract without notification solely by returning the rental item to us. We can terminate the rental contract with a period of one week. During the minimum rental period acc. to section 9.1, both parties' right to terminate this contract with immediate effect for important reasons remains unaffected. An important reason exists in particular if
- the other contract partner persistently and/or repeatedly violates obligations from these Terms despite warning;
 - the customer is more than two months in arrears with payment of the remuneration;
 - insolvency proceedings are opened against the assets of the other party or if the opening of insolvency proceedings is refused due to lack of assets.
- 9.5 The customer shall reimburse us at our first request for any damage to the rented item for which he/it is responsible, in particular for any repair costs incurred by us.
- 9.6 If the customer buys the rental item, half of the net rental payment owed shall be offset against the net purchase price, unless agreed otherwise.

10 Prices / Terms of payment

- 10.1 The amount of the remuneration and the terms of payment (dates of payment) are specified in the confirmed quotation. The agreed remuneration as compensation for the contractual services performed by us and other amounts invoiced by us shall be payable plus the statutory sales tax – subject to deviating regulations – due for payment at receipt of the invoice at customer's, and payable without any discount within thirty (30) days.
- 10.2 If the customer defaults on his/its payment obligation, we shall be entitled to charge default interest at a rate of 9 percentage points above the base rate. In addition, a lump sum for damages caused by delay in the amount of 40 EUR shall be payable in accordance with Section 288 sub-section 5 BGB. The lump sum shall be set off against any damages owed insofar as the damages consist of legal costs, in particular lawyer's fees. Without prejudice to the above, we have the right to assert further, in particular higher interest, additional costs and a dunning fee of 2 EUR per reminder. Bank costs incurred by us due to incorrect account data or unjustified rejection can be charged to the customer unless customer is not to be blamed for the incorrect information. The customer has the right to submit proof that we suffered no or a smaller loss.
- 10.3 The date of validation on the receiving account and not the date of the payment order determines whether a payment is made when due.

11 Assignment / rights of set-off and retention

- 11.1 Subject to our previous consent in writing, the customer may assign claims from the contract concluded between the parties based on these Terms. We cannot refuse consent on unreasonable grounds.
- 11.2 The customer can only declare set-off against our claims if his/its claim is undisputed or has been established as final and absolute.
- 11.3 The customer may only exercise a right of retention if the counter-claim on which he/it bases the right of retention is undisputed, established as final and absolute or ready for decision, and is based on the same contractual relationship.

- 11.4 In case of defects, the customer shall only be entitled to a right of retention if the subject matter of the contract is obviously defective, provided that the amount retained is in reasonable proportion to the defects and the anticipated costs of supplementary performance.

12 Retention of title

- 12.1 The subject matter of the contract remains our property (goods subject to retention of title) until all claims have been satisfied to which we are entitled from our business relation with the customer. In the case of a current account, the reserved property shall be used to secure our balance claim.
- 12.2 The customer may only sell the goods subject to retention of title in the ordinary course of business at his/its normal terms and conditions and as long as he/it is not in default with respect to us, provided that the claims from the resale are transferred to us in accordance with clause 12.3. The customer shall not be entitled to dispose of the goods subject to retention of title in any other way until all claims have been satisfied. Using the goods subject to retention of title for the fulfilment of other contracts for work and services or contracts for work and materials by the customer shall be deemed equivalent to resale.
- 12.3 The customer's claims arising from the resale of the goods subject to retention of title are hereby assigned to us together with all ancillary rights. We hereby accept such assignments. They serve to secure our claims to the same extent as the goods subject to retention of title. If the reserved goods are sold by the customer together with other goods not belonging to us, the claim shall only be assigned to us in the amount of our invoice amount.
- 12.4 As long as the customer is not in default with respect to us, he/it is entitled to collect the claims from resale in his/its own name until our revocation, which is permissible at any time. At our request, which is permissible at any time, he/it shall be obliged to inform his/its customers immediately of the assignment to us and to provide us with the information required for collection.
- 12.5 For the duration of the retention of title, the customer is obliged to treat the respective object of purchase with care. He/it must have necessary and recommended inspection and maintenance work carried out and bear the associated costs.
- 12.6 In the event of attachments or other third-party interventions, the customer shall immediately inform us in writing. The same applies in case of damage or destruction.
- 12.7 Any changes in the possession or the location shall also be reported to us in writing immediately.
- 12.8 At the customer's request, we undertake to release the securities to which we are entitled to the extent that the realisable value of our securities exceeds the claims to be secured by more than 10%. We can choose which securities to release.

13 Demand for surrender / right of return

- 13.1 We have the right to withdraw from the contract after setting a reasonable deadline (unless the setting of a deadline is dispensable in accordance with the statutory provisions) and to demand the return of the goods delivered under retention of title, provided that
- a) the customer is in arrears with the payment of the purchase price or, in the case of agreed instalment payments, with at least two instalments, unless he/it is not responsible for the payment arrears, or
 - b) the customer culpably violates the obligations arising from Clauses 12.2, sentences 1 and 2, 12.5., 12.6. and/or 12.7.
- 13.2 Instead of demanding surrender, we also have the right to enter the customer's premises after previous announcement in writing, to take back the delivered Subject Matter of the Contract and to make the best possible use of it by direct sale for set-off against the outstanding purchase price claim less costs incurred.
- 13.3 The surrender and repossession may also be asserted or carried out if the statute of limitations for the secured claim has already expired.

14 Obligation to inspect and give notice of defects

The customer must inspect the purchased Subject Matter of the Contract within 14 (fourteen) working days of receipt with reasonable care under the circumstances and give us written notice of any defects within a further 8 (eight) working days. Defects which cannot be ascertained at first must also be reported to us within 8 (eight) working days of their discovery, in compliance with the requirements for notification of defects pursuant to sentence 1. If the customer does not comply with these obligations, the delivery item shall be deemed approved with regard to this material defect with the result that the

assertion of claims based on defects shall be excluded. This does not apply in case of fraudulent intent.

15 Material defects and defects of title

15.1 Definition of defects

A material defect is present if the Subject Matter of the Contract does not have the contractually agreed property or is unsuitable for the contractually agreed use. A defect in title is present if it was not possible to effectively grant the customer the rights required for contractual use of the Subject Matter of the Contract.

15.2 Modifications by customer

If the customer or a third party commissioned by customer, without our written consent, interferes with the Subject Matter of the Contract delivered by us or work performances provided by us, in particular manipulates or modifies them, we shall rectify any defects only if the customer proves that the intervention is not related to the defect and does not complicate its analysis and repair.

15.3 Exclusion of supplementary performance

The customer's claim for supplementary performance is excluded if the defect cannot be reproduced or demonstrated by means of hand-written or machine-recorded printouts.

15.4 Claim on supplementary performance

In case of defects in title, the customer initially can only claim supplementary performance, provided the obligations pursuant to clause 14 have been fulfilled. We can provide supplementary performance at our own discretion by curing the matter or by replacement delivery within a reasonable period. We can make supplementary performance dependent on the payment of at least 50% of the agreed remuneration, or of a part of it which is reasonable in view of the defect. If the claimed defect is attributable to essential third-party products in the Subject Matter of the Contract supplied by us, we hereby assign our claims against our suppliers of these products to the customer. Then, the customer can only hold us liable on account of these defects if a prior out-of-court claim was unsuccessful. If our supplier is domiciled abroad, the prior out-of-court claim is sufficient. The customer is obliged to inform us immediately of the claim by our supplier under assigned rights and to inform us immediately and continuously about the negotiations.

15.5 Abatement or withdrawal / damages

If the defect is not remedied despite two attempts at supplementary performance, or if we are unwilling or unable to effect supplementary performance and make subsequent deliveries, or if we fail to do so within a reasonable period of time, or if supplementary performance fails for other reasons, the customer shall be entitled, at its option, to withdraw from the contract (to terminate the contract within the framework of a concluded rental agreement) or to demand a corresponding reduction in the remuneration paid (abatement) and, in accordance with Clause 16, to demand damages instead of performance or reimbursement of futile expenses. In the event of only a minor breach of contract and in particular of only minor defects, the customer shall not be entitled to withdraw from the contract or reduce the purchase price. In case of a contract for services, the customer furthermore has the right to remedy the defect himself/itself and to demand reimbursement of the required expenses. The statutory regulations regarding delivery recourse pursuant to Sections 478, 478 BGB remain unaffected.

15.6 Fraudulent intent / warranty

In case of fraudulent intent and if we furnished a warranty, the statutory regulations for material defects and defects of title remain unaffected.

15.7 Third-party manufacturer's warranty

If we did not manufacture the Subject Matter of the Contract and if the manufacturer offers the customer a warranty beyond supplementary performance, we shall immediately inform the customer and on request give him/it the warranty documents. We are not liable to fulfil the manufacturer's warranty.

15.8 Measures in case of claimed defects of title

If a third party claims the infringement of property rights through the contractual performance (also in the case of software), the customer shall inform us immediately and leave the defence against these claims to us as far as possible while providing all reasonable support. At our own discretion, we can effect supplementary performance by

- a) procuring from the person authorised to dispose of the property right utilisation rights to the benefit of the customer sufficient for the purposes of this contract, or
- b) changing the Subject Matter of the Contract without any effects on its function, or only with effects acceptable for the customer,

- c) replacing the Subject Matter of the Contract, without any effects on its function, or only with effects acceptable for the customer, by another Subject Matter of the Contract the contractual use of which does not infringe any property rights, or
- d) delivering a new version the contractual use of which does not infringe any property rights.

Otherwise, the regulations in the above paragraphs apply accordingly in respect of defects of title.

- 15.9 Before beginning rectification in case of software-related defects, the customer is obliged to do a comprehensive data backup.
- 15.10 Any claims of the customer's for damages and expenses against us are subject to the regulations in clause 16 (insurance / liability).

16 Insurance / liability

- 16.1 We take liability for damages or reimbursement of futile expenses on any legal grounds whatsoever (e.g. violation of duty, tort) pursuant to the following regulations:
 - a) in case of intent or gross negligence, without limitation as to amount;
 - b) in case of slight negligence of our legal representatives, executives and other vicarious agents if they violated a material contractual obligation. Material contractual obligations are obligations protecting the customer's legal positions which are essential to the contract, which the contract has to grant the customer according to its content and purpose, or the fulfilment of which enables the proper execution of the contract in the first place and on the fulfilment of which the customer may rely. Here, liability is limited for each case of damage to triple the purchase price in case of purchased items, triple the rent in case of rented items, and triple the remuneration in case of services such as erection, assembly or installation, or alternatively in each case to the maximum damage typical for the contract foreseeable at the conclusion of the contract. In all other respects, liability for damage caused by slight negligence and for loss of profit, additional personnel costs incurred by the customer, loss of use and/or loss of turnover is excluded. The provision in clause 16.4 shall remain unaffected.
- 16.2 For defects in the rented item temporarily provided which already existed at the time of conclusion of the contract, strict liability in accordance with Section 536 a sub-section 1 1. Alt. BGB is excluded.
- 16.3 Liability in the event of assumption of a quality or manufacturing risk within the meaning of Section 276 BGB or in the event of exceptional written assumption of a quality or durability guarantee in accordance with Section 443 BGB, for fraudulent intent, in accordance with the Product Liability Act and for damage to life, limb or health shall be governed by the statutory provisions.
- 16.4 The customer is obliged to report any damage within the meaning of the above liability regulations immediately to us in writing or allow us to survey it, so that we are informed as early as possible and can attempt to mitigate the damage together with the injured customer.

17 Limitation period

- 17.1 Subject to further claims from a concluded rental contract, the customer's claims due to material defects or defects of title shall become statute-barred within one year of delivery. If the defect of title consists in a right in rem of a third party on the basis of which return of the Subject Matter of the Contract can be demanded, the statutory limitation periods shall apply.
- 17.2 All other claims of the customer's from the contract and from an obligation with duties (Section 311 sub-section 2 BGB) are subject to a limitation period of one year after the start of the statutory limitation period. The claims shall become statute-barred at the latest with the expiry of the maximum statutory periods (Section 199 sub-sections 3 and 4 BGB).
- 17.3 The statutory limitation periods apply in case of injury to persons, fraudulent intent, assumption of a warranty, intent and gross negligence.

18 Disposal of electrical and electronic equipment

Within the meaning of the German Act Governing the Sale, Return and Environmentally Sound Disposal of Electrical and Electronic Equipment of 16.03.2005 (ElektroG), electrical and electronic equipment supplied by us can, at the end of its useful life, be properly disposed of pursuant to the statutory regulations by the customer at his/its own expense, or returned to us.

19 Utilisation rights

- 19.1 Copies of the manuals, documentation and other documents generated by us in fulfilment of the contract shall be provided to the customer on request for contractual use and customer's own purposes after payment of the remuneration owed therefore. The customer is obliged to observe existing statutory property rights.
- 19.2 Unless agreed otherwise in an individual case, we grant the customer a for an unlimited period of time a simple utilisation right in the work result for customer's own purposes.
- 19.3 The customer shall not copy documents received from us in fulfilment of the contract for other than in-house purposes. Any disclosure of these documents to external third parties is subject to our previous consent in writing. On termination of the contract, the customer shall immediately return documents and materials provided to him/it for use during the contract period. Any copies shall be deleted.

20 Rights in the supplied software

- 20.1 Software supplied by us and comprised in the scope of delivery is protected worldwide by copyright. In addition, the license conditions of other software manufacturers apply to software tools integrated into our software.
- 20.2 Upon full payment of the agreed remuneration, we grant the customer the simple (non-exclusive) and non-transferable right to use the contractual software for the duration and number of users per license specified in the quotation in accordance with the statutory provisions in Sections 69d sub-sections 2 and 3 as well as 69e Copyright Act. In case of permanent software provision, the customer shall be granted a non-exclusive, non-transferable right of use revocably until full payment. With regard to the ownership of the provided data carriers, the provisions of clauses 12 and 13 of these Terms shall apply.
- 20.3 The removal of a copy protection or similar protection routines is permissible, if this protection mechanism impairs or prevents the trouble-free use of the program. Removing or modifying copyright marks, serial numbers and other program identification features is not permitted.

21 Secrecy / Data protection / Naming references

- 21.1 The parties commit to treat confidentially all business or company secrets (e.g. process parameters, quotations, circuit diagrams) or information described as confidential that in the course of contract fulfilment have come to their knowledge or have been provided to them from the other party, also beyond the end of the contract, and to oblige their respective employees accordingly. Such information and documents must not be disclosed to external third parties not involved in contract fulfilment. Each party shall protect the Subject Matters of the Contract in the same way as their own sensitive documents. Each party has the right to demand documentation of the type and scope of the administrative measures taken to ensure such protection.
- 21.2 The obligation to secrecy does not apply to information and documents already publicly known and accessible at the time of disclosure, or already known to the other party at the time of disclosure or legitimately made available to it by a third party.
- 21.3 In the frame of contract fulfilment, we shall comply with all privacy policy requirements and obligate our employees to observe the data protection regulations in particular pursuant to Section 5 of the German Data Protection Act. Herewith, the customer is informed that we will save the personal data required for handling the transactions and use it for order handling, customer relationship management, provision of the contractual services, payment processing and averting loss of receivables, and may be passed on to service partners we use to process the contract (such as banks).

22 Written form

- 22.1 All modifications comprising a change, supplement or specification of these contractual conditions, and in particular assurances and agreements, must be in writing. Unless approved in writing by our management, holders of 'Prokura' (general commercial power of representation) or legal representatives, declarations within the meaning of sentence 1 made by other employees of ours are not binding.
- 22.2 Use of emails for declarations meets the requirement of written form.

23 Applicable law / Place of jurisdiction

- 23.1 These Terms and contracts concluded based on them are subject to the law of the Federal Republic of Germany under exclusion of the UN Convention on Contracts for the International Sale of Goods.

23.2 If the customer is a merchant, a legal entity under public law or a special fund under public law, the only place of jurisdiction for any disputes arising out of this contract is the court which has jurisdiction for our corporate headquarters. The same applies if the customer has no general place of jurisdiction in Germany or his usual place of residence at the time the action is filed is unknown. However, we also have the right to assert claims of our own at the customer's place of jurisdiction.

24 Severability clause

Should individual provisions of these Terms be or become invalid in whole or in part or should there be a gap in these Terms, the validity of the remaining provisions shall not be affected. To replace the invalid provision, the customer and we shall agree on a valid provision which corresponds to the meaning and purpose of the invalid provision. In case of a gap, the customer and we shall agree on a provision which corresponds to the agreement that, in keeping with the meaning and purpose of these Terms, would have been reached had we thought to include the point.