

General Business Terms and Conditions of the Company IBH softec Gesellschaft für Automatisierungstechnik mbH (Hereinafter IBH softec)

1. Validity of terms and conditions

- 1.1 Exceptionally these business conditions are applied to all offers, orders, deliveries and services provided by IBH softec. Therefore, they are also valid for all further business relations, even though they are not discussed again.
- 1.2 Any contrary general business terms and conditions are not subject-matters of the Contract, even though they do not contradict directly.
- 1.3 Deviations from these terms and conditions shall be presented in writing.

2. Offers

- 2.1 Offers provided by IBH softec are without obligation. Orders will be accepted only in case they are confirmed by IBH softec or are executed (also partially executed).
- 2.2 Technical and design deviations from descriptions and data specified in brochures, catalogues and written documents, including changes to the model, construction as well as material type, which take place in the course of the technical progress, remain reserved. No rights against IBH softec can be derived from it.

3. Prices and payment conditions

- 3.1 All prices include expenses made in Beerfelden, including statutory VAT as well as expenses related to packaging, shipping and installation.
- 3.2 In case no other conditions are agreed, all invoices are paid within 30 days without any deduction.
- 3.3 Regardless of any other provisions stated in another manner for the part of the Customer, IBH softec is entitled to charge payments of the Customer against older debts firstly.
- 3.4 If the Customer defaults, default interest is to be paid in accordance with bank rate (4% above the rate of the Deutsche Bundesbank at least).
- 3.5 If the Customer is not able to fulfill payment obligations in conformity with the Contract, discontinues their payments, or IBH softec is aware of other circumstances which bring creditworthiness of the Customer into question and, therefore, put the requirements of IBH softec into danger, IBH softec is entitled to demand to pay off the rest debt, to effect prepayments or is also able to undertake some protective measures as well as to put into practice the reservation of right of ownership according to 7.4.
- 3.6 The Customer has the right to setting-off, retention or reduction of their debt if IBH softec expresses their consent, acknowledges claims, or in case counterclaims are in compliance with law.

4. Delivery and performance time

- 4.1 The designated dates and deadlines are not binding unless anything else is agreed in writing.
- 4.2 All delivery dates are subject to proper and timely delivery. They are valid from the day of contract confirmation (nevertheless, not until all details concerning the compliance with the provisions of the contract are cleared) and are extended without detriment to the rights of IBH softec by the time of customer default in case it takes place.
- 4.3 Partial deliveries are permissible.
- 4.4 Delivery and service delays due to force majeure or events which complicate delivery for IBH softec considerably or make it impossible, and which IBH softec is not responsible for (for example, material procurement difficulties, equipment failure, strikes, governmental regulations, and etc.), are beyond the accountability of IBH softec, even if suppliers and subcontractors suffer from it, and dates and deadlines are binding. In such a case IBH softec is entitled to postpone delivery or services in accordance with the duration of the hindrance including reasonable start time or to withdraw the Contract in whole or in part because of some unfulfilled parts of the Contract.
- 4.5 A delay of IBH softec is valid only in case the Customer has set an extension of one month at least, with the exception of agreed fixed dates. In case of a delay, the Customer can claim delay compensation at the rate of 0.5% for each completed week of delay. Nevertheless, sum total may not exceed 5% of the invoice value of the delayed delivery or service. Damage claims arising from delay of any kind are excluded unless the delay is due to gross negligence for the part of IBH softec.

5. Shipping

Every delivery (including freight-free delivery) is effected at the risk of the Customer. The Customer is responsible for delivery from the moment when it is passed to the shipper or carrier. This is valid even if delivery is effected directly from the manufacturer at the instigation of IBH softec. If shipment is delayed or made impossible without gross negligence for the part of IBH softec, the Customer assumes accountability since a notification concerning readiness for shipment has been sent to the Customer. Goods may be insured against shipment damage only at the request and expense of the Customer.

6. Guarantee

- 6.1 IBH softec is responsible for the supplied goods in compliance with the statutory guarantee provisions. The guarantee period shall begin upon acceptance of the goods or notification of readiness for delivery, or when the installation provided by IBH softec is conducted and completed.
- 6.2 If operating and maintenance instructions are not followed, changes to the products are made without written approval of IBH softec, parts are replaced, or materials that do not meet original specifications are used, the warranty is not valid.
- 6.3 The Customer is to immediately inform of any defects in writing within one week after receipt of the product and to return the goods to IBH softec first freight-free.
- 6.4 If there are defects, IBH softec is entitled to reparation or free-of-charge delivery replacement at their option unless a guaranteed property is lacking, or IBH softec is charged on intention or gross negligence.
- 6.5 The Customer may not assign warranty claims.
- 6.6 If IBH softec has not fulfilled warranty obligations within an extension period set by the Customer in writing, the Customer can withdraw the Contract.
- 6.7 Further claims are excluded. It concerns especially damage claims, claims for consequential damage, unless they are expressly attributed to the lack of guaranteed characteristics or are due to intention or gross negligence for the part of IBH softec.
6. Replacement or additional deliveries do not extend the warranty period.

7. The reservation of the right of ownership

- 7.1 Until all obligations (including future obligations) in accordance with the Contract made between the Parties are satisfied, the supplied goods remain the property of the Company IBH Softec.
- 7.2 The Customer is entitled to pass the secured goods in conformity with enacted business relations and the reservation of the right of ownership. A pledge or transfers of property in security are not permitted. The Customer shall inform IBH softec in writing immediately as soon as a third party obtains an access to secured goods and/or refers to the right of ownership of IBH softec.
- 7.3 If the (co-) ownership of IBH softec declines by combining, mixing or processing, it is agreed hereby that the ownership of the Buyers of an entire object is passed to IBH softec on the pro rata basis (invoice value).
- 7.4 In case of late payment or other payment relations between IBH softec and the Customer, or in case of insolvency of the Customer, IBH softec is allowed to take secured goods in accordance with the reservation of the right of ownership and, thus, to enter business premises of the Customer.
- 7.5 The enforcement of the reservation of the right of ownership shall not be deemed as cancellation of the present Contract.

8. Software requirements, software license

- 8.1 The software license is deemed granted in case software is delivered. All exploitation rights remain without any limitation for the part of IBH softec.
- 8.2.1 The license entitles the Customer to use the licensed software, including subsequent updates and documentation. The license allows use only for personal purposes. The further use (especially sale or assignment for use, including bankruptcy or takeover situations) is excluded.
- 8.2.2 The Customer may not make the software accessible to the third parties.
- 8.2.3 All software exploitation rights belong to IBH softec.
- 8.2.4 The Customer does not have the right to make copies of the software or documentation components.
- 8.3 Protection and copyright
- 8.3.1 IBH softec alone is entitled and obliged to apply the intellectual property rights and copyrights and to defend the Customer against any claims for the part of the third parties.
- 8.4 If the Customer makes any changes to the software or integrates it with an external system, all liabilities and warranty obligations of IBH softec are not valid anymore. Furthermore, in case copyright infringements take place, IBH softec may put in a claim.

9. Liability

- 9.1 IBH softec is liable only for gross negligence or willful misconduct. The personal liability of an IBH softec employee acting as an agent is excluded.
- 9.2 IBH softec is not liable for indirect damage (such as consequential damage, lost profits) or for the loss of data or programmes.

10. Export

- 10.1 The export of goods from IBH softec in non-EC countries needs a written consent of IBH softec, regardless of the fact that the Customer has to be accountable for official import and export permits.

11. Place of performance of contract

- 11.1 The seat of IBH softec is the place of performance of the Contract.
- 11.2 The law of the Federal Republic of Germany shall apply.

12. Severability, ineffective clauses

- 12.1 If one or more provisions of these terms are invalid, the overall effectiveness of the contract will not be affected. Ineffective clauses are to be replaced by effective regulations, which comply with the required purposes in full.