

General terms and conditions of of MECHALESS SYSTEMS GMBH for work and services

1. Preliminary remarks

The following contractual terms (hereinafter "Terms") apply exclusively in the relationship to enterprises. Transactions with final customers or so-called consumers are not done and are thus not covered by the scope of application of the following Terms.

2. Scope of application

- (1) These Terms apply to all contracts between MECHALESS and its clients for deliveries and services, to the extent that nothing to the contrary has expressly been agreed in writing.
- (2) The Terms of MECHALESS shall exclusively apply to the deliveries and services of MECHALESS. Contradictory or deviating terms and conditions of Client shall only be binding if and insofar as MECHALESS expressly approves their validity in writing. The Terms of MECHALESS shall apply even if MECHALESS performs the order without reservations despite knowledge of contradictory or deviating terms and conditions of Client. Deviating agreements shall only apply to a certain contract in each case and not to future contracts, to the extent that nothing to the contrary has expressly been agreed in writing. By placement of an order or acceptance of deliveries or services, Customer acknowledges the validity of the Terms of MECHALESS.
- (3) The Terms shall also apply to all future contracts between MECHALESS and its clients for deliveries and services without a repeat reference being necessary in the individual case.

3. Quotation, conclusion of contract and scope of orders

- (1) Our quotations shall be subject to change without notice. The contract concluded in each case by ordering and order confirmation including these Terms shall be decisive for the legal relationships between MECHALESS and Client. Oral side-agreements do not exist. Amendments and addenda to the agreements made must be made in writing. Subject to other contractual agreements, MECHALESS shall at its own discretion be free to accept or to reject orders from Client.
- (2) If Customer places the order by electronic means, we shall confirm receipt without delay. Confirmation of receipt does not yet represent a binding acceptance of the order. The confirmation of receipt can be connected with the declaration of acceptance. To the extent that Customer has placed the order by electronic means, the text of the contract shall be stored by us and sent to Customer by e-mail upon request together with these Terms.
- (3) The scope of deliveries and services shall result from our quotation or our order confirmation and these Terms to the extent that no statutory regulations contradict. The deliveries and services by MECHALESS shall be rendered to a scope set by a quotation remaining subject to change without notice until conclusion of the contract/the order confirmation as services and/or works according to the statutory directives to be applied in each case, to the extent that nothing to the contrary has been set in these Terms. MECHALESS shall render services under its own responsibility. Client shall remain responsible itself for the results required by it and achieved. For works, MECHALESS shall be responsible for the individual results and for the management, control and monitoring of the rendering of the services.
- (4) MECHALESS and Client shall each be entitled to apply for changes to the agreed scope of service in writing. MECHALESS or Client, as the case may be, shall examine feasibility of this amendment following receipt of a change application. The outcome of this examination shall be notified to the other contracting party in writing without delay. MECHALESS shall be entitled to charge Client for the expenditure incurred by it to the extent that this change application makes an extensive and costly examination necessary. The contractual adaptations necessary for such an examination or for a change of the agreed scope of service shall be set in an additional agreement. Changes to the scope or contents of the services shall only be possible by means of a mutual written agreement or written confirmation.

4. Performance of orders

- (1) Orders shall be performed complying with the state or the art and the science valid at the time in question.
- (2) Only MECHALESS shall be authorised to give instructions to its employees.
- (3) MECHALESS shall be entitled to make use of third parties' activities to perform the orders. MECHALESS shall always remain directly obligated towards Client itself.

5. Performance periods

- (1) Periods and dates agreed for our services shall only be deemed binding if they have expressly been termed as such. The performance period shall be calculated observing Client's duties to cooperation (see Section 6) from the order confirmation or, in the event of down-payment, cash in advance or payment of a security having been agreed with Client, from the date on which we receive the payment.
- (2) In cases of force majeure or other incidents unforeseeable at the time of conclusion of the contract on which we have no influence (e.g. disturbances of operation, delays in supply of essential raw, auxiliary and operating equipment, natural catastrophes such as floods, earthquakes, tornados; terrorism, war, fire, strike and similar) for which we are not answerable, we shall be entitled to withdraw from the

contract to the extent that performance is made considerably more difficult or is delayed for more than two months or made impossible as a result of the impediment. If such impediments are only of a temporary nature, the contractual duties of the parties shall be suspended for the duration of the force majeure and to the extent of their effect. If acceptance cannot reasonably be expected of Client as a result of a delay of more than two months, it can withdraw from the contract by means of a written declaration without undue delay.

6. Client's duties to cooperation

- (1) In good time before performance of the order, Client shall provide MECHALESS free of charge with all the information, materials, devices, documents, processes etc. necessary for performance of the order, if necessary sending them to MECHALESS at its own expense, and shall grant MECHALESS the necessary rights of use for the purpose of performance of the order if applicable.
- (2) Insofar as MECHALESS becomes active with Client, Client shall procure access to all premises, installations (hardware, software, networks etc.) and other working equipment necessary for proper rendering of the services by MECHALESS for the latter's employees or third parties commissioned by it within the framework of the customary operating hours and within the operational access regulations free of charge. If required, Client shall also ensure provision of functioning workplaces for the employees of MECHALESS or third parties commissioned by it free of charge.
- (3) In addition, Client shall cooperate in the performance of the order in the necessary way.
- (4) If Client fails to perform the obligations incumbent on it pursuant to sub-sections 1-3 or does not do so in good time and if this leads to delays and/or additional expenditure, the agreed timeframe shall be extended or the agreed remuneration shall be increased accordingly.

7. Remuneration and payment terms

- (1) The services and works shall be charged at the fixed price stated in the order confirmation or on the basis of actual time and materials following the end of the work or acceptance of the services, to the extent that no other invoicing and mode of payment has been agreed in the individual case. In the event of services and works on the basis of actual time and materials, the working hours and travelling expenses incurred shall be invoiced at the valid hourly rates in question and the materials consumed in each case at the prices valid in each case at the time of the notification of readiness for service. Estimates for services and work stated in the order confirmation on a time and material basis shall be non-binding.
- (2) All the prices stated in the order confirmation shall be understood exclusive of the costs of shipment, packaging and import customs or other taxes, dues or costs. The turnover tax shall be stated separately in both the quotation and the invoice at the rate of turnover tax valid at the time in question. Other expenditure, in particular costs of travelling, stopovers and overnight accommodation shall be charged additionally.
- (3) To the extent that nothing to the contrary results from the order confirmation, payment shall be made by Client to our bank account stated on the invoice within [20] days of the date of the invoice.
- (4) A plurality of clients shall be liable jointly and severally.
- (5) Client can only offset if its counterclaims are legally effective, undisputed or have been acknowledged by MECHALESS.
- (6) Client can only claim rights of retention if it is a question of an undisputed or legally effective counterclaim or one acknowledged by MECHALESS.
- (7) Default interest shall be charged to the amount of 8% above the basic rate of interest at the time in question. The right to claim higher damage from arrears shall remain reserved.

8. Acceptance

- (1) Work services shall be accepted by Client as soon as MECHALESS has demonstrated correspondence with the agreed description of service and has requested acceptance from Client. Inconsiderable deviations shall not entitle Client to reject acceptance. The duty to remedying of defects within the framework of warranty shall remain unaffected.
- (2) At acceptance, a record to be signed by both parties and confirming the correspondence with the agreed description of service shall be produced.
- (3) The work service shall be deemed accepted if the prerequisites of sub-section 1 have been fulfilled and [14] working days have expired since the delivery of the work [or Client has started commissioning or productive use of the work or parts of the work without notification of defects and, in such a case, [7] working days have expired.

9. Retention of title

- (1) Goods supplied by MECHALESS shall remain property of MECHALESS (conditional commodities) until complete payment of all its claims, also future ones, whatever the reason, against Client and until complete release from contingent liabilities which MECHALESS has entered into in Client's interest, in particular ones from bills (secured claims), even if payments are made for specifically designated claims. In current account, reserved title shall be deemed collateral for MECHALESS' account claims.
- (2) The conditional commodities may not be pledged or transferred by way of security before complete payment of the secured claim. Client shall notify MECHALESS in writing without delay if and insofar as interventions are made by third parties against the goods belonging to MECHALESS.

- (3) Without obligating MECHALESS, processing and machining shall be done on MECHALESS' behalf as manufacturer, with the result that MECHALESS directly acquires ownership pursuant to § 950 German Civil Code. In the event of processing by Client with other goods not belonging to MECHALESS, co-ownership of the new object shall accrue to MECHALESS in the ratio of the value of the conditional commodities to the value of the newly created object. The new object resulting from the processing and the co-ownership shall then be regarded as conditional commodities. To the extent that ownership or co-ownership does not directly originate for MECHALESS, it is here and now assigned to MECHALESS by Client. Client shall keep the conditional commodities on MECHALESS' behalf.
- (4) Client shall be obliged to treat the conditional commodities gently; in particular, it shall be obliged to insure them adequately at its own expense against fire, water and theft damage at the par value.
- (5) In conduct of Client in breach of contract, in particular if the due purchase price is not paid, MECHALESS shall be entitled to withdraw from the contract according to the statutory directives and to demand return of the conditional commodities on the basis of the reservation of title and the withdrawal. If Client fails to pay the due purchase price, MECHALESS may only exercise said rights if it has previously set a suitable period for payment for Client without success or such a setting of a period is dispensable according to statutory directives.
- (6) Client may only sell and/or process the conditional commodities in usual business dealings under its normal business conditions and as long as it is not in arrears. Client's claims from a resale of the conditional commodities are here and now assigned to MECHALESS to secure all the latter's claims stated in sub-section 1 completely or to the amount of all and any share of co-ownership of MECHALESS, regardless of whether the conditional commodities have been resold with or without agreement and whether they have been resold to one or more customer(s). MECHALESS accepts the assignment. MECHALESS revocably authorises Client to collect the claims assigned to MECHALESS in its own name. MECHALESS may not revoke this collection authorisation as long as Client properly complies with its payment duties from the business relationship with MECHALESS, does not fall into arrears, no application for opening of insolvency proceedings has been made and no other defect in his ability to pay exists.
- (7) If the value of the collateral for MECHALESS' claims exceeds the latter by a total of more than 10%, MECHALESS shall by request of Client be obliged to release securities to this extent at its own choice.
- (8) If the simple or extended retention of title stated in this Section 9 is invalid according to the law of the country in which the conditional commodities are located, a collateral best doing justice to the purpose of the retention of title according to the law of said country shall be deemed agreed. By request of MECHALESS, Client shall undertake all the actions necessary for said purpose.

10. Warranty

- (1) For work services, MECHALESS shall warrant that the agreed specification has been fulfilled and the work services fulfil the scope of service.
- (2) Client shall have a claim to remedying of defects of which it has notified MECHALESS in a written form without delay following discovery. We shall grant warranty for defects in the goods by reworking or replacement delivery at our choice to start with. The expenditure necessary for examination and subsequent performance, in particular transport, travel, working and material costs, shall be borne by MECHALESS if a defect actually exists. However, if Client's request for remedying of a defect proves to be unjustified, we can demand reimbursement of the costs originating therefrom by Client.
- (3) If subsequent performance fails or if further attempts at reworking cannot be reasonably expected, Client can as a matter of principle demand reduction of the remuneration, curtailment or cancellation of the agreement at its choice. However, no right of withdrawal shall accrue to Client in the event of only slight breaches of contract, in particular only slight defects. If Client selects withdrawal from the contract on account of a defect in title or quality following failed subsequent performance, no claim to damage on account of the defect shall accrue to it subject to Section 11.
- (4) The warranty period shall be 1 year from acceptance of the work.
- (5) Assurance of properties shall require express written confirmation from MECHALESS. Statements in documentations, brochures, project descriptions etc. shall not be assurances of properties or guarantees.
- (6) Obvious mistakes such as spelling errors, calculation errors, formal defects etc. contained in a report, analysis or other professional expression by employees of MECHALESS can be corrected at any time by MECHALESS.

11. Liability

- (1) Subject to other regulations in the present Terms, we shall merely be liable for damage on the basis of a breach of contractual and extra-contractual duties and, during the preparation of the order, merely for malice aforethought and gross negligence on our part, including the part of our statutory representatives or vicarious agents, and, in the event of a culpable breach of cardinal contractual duties, whatever the reason. In the event of a culpable breach of cardinal contractual duties - with the exception of malice aforethought or gross negligence on our part, including the part of our statutory representatives or vicarious agents - we shall merely be liable for foreseeable damage typical for the contract. Cardinal contractual duties shall mean those duties, fulfilment of which only makes proper performance of the contract possible and in compliance with which Client may regularly trust.

- (2) Any further-reaching liability of MECHALESS has been ruled out. To the extent that our liability has been ruled out or limited, this shall also apply to the personal liability of our employees, workers, fellow-workers, representatives and vicarious agents.
- (3) The limitation of liability in these Terms shall not apply to culpable injury of life, limb and health, assumption of a guarantee or within the framework of liability according to the German Product Liability Act.
- (4) Subject to the sub-sections 1 to 3 above, MECHALESS shall be liable in work services for Client's damages from arrears if a fixed final date agreed in the quotation is exceeded by more than thirty days for reasons for which MECHALESS is answerable. The reimbursement for arrears shall be limited to Client's proven damage with a view to the reason and to 0.5 per cent for each further week of the arrears with a view to the amount, albeit no more than 5 per cent of the total remuneration of the part of the service not completed in good time.
- (5) Client shall be obliged to notify damage for which MECHALESS is to be made liable without delay in writing and to grant MECHALESS the opportunity of examining the damage and its causes.

12. Non-disclosure

- (1) The contracting parties are obliged to keep the contents and scope of the contractual services, in particular the economic, technical and other information and knowledge, inventions, experience, formulations, diagrams, models, records, procedural methods, working results and other technical and commercial know-how made accessible by the other contracting party or otherwise becoming known in the preparation and performance of orders (hereinafter "confidential information") confidential during the term of the order and only to use said confidential information for the performance of the order. In particular, the contracting parties assure one another that they will not exploit or use the confidential information over and above the purpose of the order or make it accessible to third parties without the prior written consent of the other contracting party.
- (2) The duty pursuant to sub-section 1 shall not apply to information and knowledge which
 - was already known to MECHALESS before the placement of the order,
 - MECHALESS legally obtains from third parties,
 - was public domain at the time of the placement of the order or
 - becomes public domain without a breach of the duty pursuant to sub-section 1,
 - was independently invented or developed following the time of receipt by MECHALESS or its employees and independent of the disclosed confidential information,
 - has to be disclosed by law or official order, in which context the disclosure of confidential information is limited to the absolute minimum and the other contracting party to which the confidential information belongs is notified in advance of the duty to disclosure.
- (3) The duty pursuant to sub-section 1 shall apply to both contracting parties for a further two years following the end of the order.
- (4) Client acknowledges the necessity of scientific lectures and publications by MECHALESS and shall not unfairly reject any approval necessary pursuant to sub-section 1 for this.

13. Data protection

The contracting parties shall only process or use personal data of the other contracting party for contractually agreed purposes, complying with the statutory directives.

14. Rights to work results, indemnification

- (1) MECHALESS shall remain owner of the intellectual property rights to the goods and/or the results of the services, whatever their nature, including the rights to protectable inventions and developments, documentations, reports, planning documents, evaluations, diagrams, lists, illustrations, catalogues, programme materials, know-how, computer programmes and all other results provided to Client (hereinafter all told "work results"), Client may not copy, reproduce or circulate the work results either partly or totally without prior written consent from MECHALESS.
- (2) Inventions and rights resulting therefrom made jointly by employees of MECHALESS and of Client during the performance of an order as well as protective rights granted thereon shall accrue to both contracting parties jointly.
- (3) Inventions and rights resulting therefrom made by employees of MECHALESS during the performance of an order as well as protective rights granted thereon shall belong to MECHALESS. Inventions and rights resulting therefrom made by employees of Client during the performance of an order as well as protective rights granted thereon shall belong to Client. Client shall in any case grant MECHALESS a simple, free-of-charge and unlimited right of use to its work results for the purposes of order performance.
- (4) Transfer of ownership and rights of use to the work results of any kind achieved within the framework of the scope of service agreed in the contract and made known to Client shall require a specific written agreement. However, MECHALESS shall in any case maintain a free-of-charge and non-exclusive right of use to these work results for purposes of research and teaching.
- (5) MECHALESS shall bear no responsibility for whether the work results provided by it to Client or by its order breach existing copyrights, industrial protection rights or other third parties' rights. Client alone shall be liable if third parties' rights are breached by MECHALESS performing its order. Client shall

indemnify MECHALESS against all third parties' claims on account of such a breach of rights at first request. Section 10 shall remain unaffected.

15. Software licence conditions

- (1) MECHALESS declares to the best of its knowledge that it is entitled to the licensing and adaptation necessary for the proper performance of the order in question. To the extent that nothing to the contrary has been agreed, MECHALESS shall be obliged to render the delivery of software free of commercial protection rights and third parties' protective rights merely in the country of the place of delivery. Ownership and all intellectual property rights to the software shall at any time remain with MECHALESS or its licensors. The software shall be provided to Client at the following licence conditions subject to an individual contractual agreement.
- (2) MECHALESS shall grant Client a lasting, non-exclusive, non-transferable right of use to the software provided.
- (3) The software shall be provided to Customer without warranty under the condition that it is exclusively used on the hardware on which it was originally installed and supplied by MECHALESS.
- (4) Client shall not be allowed
 - to use the software independent of the hardware on which it was supplied to Client by MECHALESS, to sell or to pledge it or to have it used by third parties,
 - to decompile, disassemble or back-develop the software or in any other way try to derive a product source code from the object code, except to the extent expressly permitted by applicable law,
 - to develop derived software or other computer programmes on the basis of the software or to have them developed.
- (5) Client shall be entitled to make one (1) back-up copy of the software for the purpose of replacement of the original in the event of unintentional loss and damage of the software.
- (6) This licence shall apply from acceptance of the goods and shall remain effective until terminated by MECHALESS with 30 days' notice as per the end of a month, subject to any other agreement. The licence shall expire automatically in the event of a breach against the licence by Client or if the products on which the software has been installed are destroyed or provided to third parties without authorisation.

16. Termination

- (1) Contracts can be terminated at any time with 30 days' notice as per the end of a month to the extent that the subject matter of the contract is a service.
- (2) Termination of contracts for good and sufficient reason shall be possible at any time.
- (3) In the cases of termination pursuant to sub-section 1 and 2, Client shall pay the agreed remuneration less the pro rata remuneration for the agreed scope of performance saved by the notice being given. In addition, MECHALESS shall have a claim to remuneration of the services and expenditure originating before or in connection with the termination - also in the relationship of MECHALESS to third parties - and which can no longer be cancelled by MECHALESS in view of the termination.
- (4) If notice has been given for reasons for which MECHALESS is answerable, MECHALESS shall only have a claim to remuneration for the services rendered up to such time to the extent that they are useful for Client.
- (5) Notice shall always require written form.

17. Return of documents and objects, right of retention

- (1) Following the end of an order, Client can demand return of the documents and objects provided by it from MECHALESS, which may reject returning until it is satisfied on account of its claims from the contract, to the extent that retaining individual documents and objects would not breach good faith according to the circumstances, in particular on account of proportional negligibility of the amounts owed.
- (2) MECHALESS can make and keep transcripts or copies of documents which it returns to Client.

18. General provisions

- (1) Contracts shall be concluded in writing. Side-agreements shall only be effective if they are confirmed in writing by MECHALESS. Amendments and addenda to these terms shall require written form in order to take effect. This shall also apply to a change of this provision of written form.
- (2) Assignment of rights and duties from the contract to third parties by Client shall require prior written consent from MECHALESS.
- (3) The law of the Federal Republic of Germany shall prevail, ruling out the provisions of international private law. The provisions of UN purchasing law shall not be applicable.
- (4) If individual provisions of the contract with the customer, including these Terms, are or become partly or totally ineffective, the validity of the remaining provisions shall not be affected. The totally or partly ineffective regulation is to be replaced by one, the commercial outcome of which comes as close as possible to that of the ineffective one.

19. Place of jurisdiction, place of performance

The exclusive place of jurisdiction and place of performance shall be Bruchsal.