

General Terms and Conditions of Sale, Delivery and Payment of xevIT GmbH (xevit)

§1 Area of Validity and Right of Modification

- (1) Legal relationships between xevIT and the contractual party of xevIT services and xevIT goods are governed exclusively by the following General Terms and Conditions (T&Cs), valid at the time of ordering.
- (2) xevIT explicitly reserves the right to modify the T&Cs.
- (3) xevIT does not recognise any differing terms of the contractual party, unless xevIT has explicitly confirmed their validity in writing.

§ 2 Conclusion of Contract

- (1) Ordering xevIT services and xevIT goods constitutes a binding offer.
- (2) A contract shall be deemed to have been entered into when xevIT accepts the offer made by the contractual party in the order with a written confirmation or by executing its services or deliveries within 14 days of receipt of the order.
- (3) xevIT is entitled to withdraw from the contract if the service is not available or the goods are not in stock, especially because of a database error or because a supplier has failed to deliver to xevIT. xevIT is obligated to inform the contractual party immediately in the event of non-availability and to reimburse the contractual party immediately for any considerations received.

§ 3 Scope and Execution of Deliveries and Services

- (1) Execution shall be effected in line with the contractual content and the applicable technical regulations. However, xevIT reserves the right to make changes for the purpose of maintaining quality. Therefore, the scope, execution, weight specifications and associated documents, e.g. models, illustrations, drawings, may differ from the delivery and service description, especially in terms of design and material, if the difference is reasonable for the contractual party, taking the interests of xevIT into account.
- (2) xevIT is entitled to make partial deliveries if this is reasonable for the contractual party, taking the interests of xevIT into account.
- (3) The contractual party recognises the ownership and copyright of xevIT to illustrations, drawings, calculations or other documents and shall not make these documents available to third parties. The contractual party must return the documents to xevIT immediately on request if the conclusion of contract does not come to pass.
- (4) Statistical calculations shall be provided at the contractual party's request and only against separate payment.

§ 4 Prices and Payment

- (1) The prices for xevIT goods are freight collect ex stock or works.
- (2) xevIT invoices must be paid within 10 days from the date of invoice without deductions. If the contractual party defaults on payment, xevIT is entitled to demand default interest in the amount of 5 % above the applicable base rate in accordance with § 1 of the DÜG (German Discount Rate Transition Act) of 9th June 1998. xevIT is entitled to demand a higher level of penalty if it is able to demonstrate greater damages caused by the delay.
- (3) If a total price including installation has been

agreed, the contractual party must guarantee unhindered access to the installation site, immediate unloading by the contractual party and a dry and clean-swept installation site. (4) xevIT reserves the right to raise prices in line with any cost increases that have occurred for contracts for goods or services that are not supplied or delivered within four months of the contract being concluded, especially due to collective agreements, exchange rate fluctuations or material price increases. However, this does not apply to continuing obligations. If the increases amount to more than 5 % of the agreed price, the contractual party has the right to terminate. (5) The contractual party has no set-off rights unless its counterclaims are legally established, uncontested or recognised by xevIT. Moreover, the contractual party is only entitled to exercise its right of retention insofar as its counterclaim relates to the same contractual relationship.

§ 5 Delivery and Service Periods

- (1) xevIT accepts no liability for damages arising from late delivery, unless these relate to wilful intent or gross negligence on the part of xevIT. This also applies to damages caused by agents or assistants.
- (2) The contractual party must fulfil its obligations punctually and properly for xevIT to comply with its delivery and service obligation. In particular, this means clarification of all technical issues, prompt receipt of all documents, drawings, circuit diagrams, necessary releases, approvals, and specifications to be supplied by the contractual party, as well as all other commitments to be fulfilled by the contractual party.

§ 6 Transport Insurance

xevIT shall take out transport insurance to cover the delivery at the request of the contractual party; the costs incurred shall be borne by the contractual party.

§ 7 Liability

- (1) xevIT accepts no liability unless damages have been caused by wilful or grossly negligent behaviour, or the damages relate to loss of life, bodily injury or damage to health. This also applies to damages caused by agents or assistants. In the event of a merely negligent breach of obligation by xevIT, its agents or assistants, xevIT's liability shall be limited to damages typical for this type of contract, which were foreseeable at the time the contract was concluded.
- (2) The above liability limitation does not apply to claims arising from the ProdHaftG (German Product Liability Act).
- (3) With regard to services, xevIT is not liable for seamless operation of the devices and systems, and nor for damages caused by improper handling of the software or hardware by the contractual party or a third party.

§ 8 Guarantee

- (1) If xevIT is responsible for a defective delivery or service, xevIT is entitled to attempt supplementary performance. This does not apply if a purchase contract, or a contract based on delivery of the movable objects to be manufactured or produced, was concluded with an individual who is not acting within the scope of professional or commercial activity. In the event of supplementary performance, xevIT is obligated to bear all expenditure required for the purpose of supplementary performance, especially transport, road, labour and material costs.

- (2) If xevIT is not prepared or is not in a position for supplementary performance, or this is delayed beyond reasonable deadlines for reasons for which xevIT is responsible, or if it should fail in other ways, the contractual party is entitled to choose either to withdraw from the contract or to reduce the price.

§ 9 Rights of Use

- (1) If software constitutes part of the scope of delivery, xevIT shall transfer the rights of use for the software to the contractual party. However, these rights shall not be exclusive.
- (2) The contractual party may only use this software within the scope of the contract. This applies especially to duplication and dissemination to third parties.
- (3) If xevIT is sued due to a violation of copyright and/or industrial property rights by the contractual party in relation to the supplied software, the contractual party shall indemnify xevIT against all third-party claims.

§ 10 Retention of Title

- (1) All supplied goods remain the property of xevIT until full receipt of all payments arising from the contract. If the contractual party is a merchant, xevIT shall retain ownership of the supplied goods until settlement of all claims arising from the business relationship that are already outstanding against the contractual party, including payments that are not yet due.
- (2) Any processing or restructuring of the reserved goods by the contractual party is always undertaken for xevIT. If the xevIT reserved goods are processed with goods that do not belong to xevIT, xevIT shall acquire ownership of the new goods at a ratio of the value of the reserved goods to the other processed goods at the time of processing. In the event of damages that arise during processing, the same provisions shall apply as apply to the goods supplied with reserved title.
- (3) The contractual party is entitled to resell the reserved goods in the course of its proper business activities. However, the contractual party shall hereby assign to xevIT all claims against its customer arising from the resale in the amount of the invoiced value, and regardless of whether the reserved goods were resold without or after processing. This assignment in advance also applies to other revenue or substitutes arising from the resale, which the contractual party is due from third parties regardless of the legal basis for this.
- (4) The contractual party must inform xevIT immediately in the event of resale, seizure or other third-party interventions.
- (5) xevIT is obligated to release the securities owed to it at the demand of the contractual party, insofar as the realisable value of the securities exceeds the claims to the secured by more than 20 %.

§ 11 Miscellaneous

- (1) Providing the contractual party is a merchant, the court of jurisdiction shall – depending on the amount involved – be the Amtsgericht Ettlingen or the Landgericht Karlsruhe; however, xevIT is also entitled to file a suit against the contractual party at its residence.
- (2) Unless otherwise stated in the order confirmation, xevIT's registered office shall be the place of fulfilment.
- (3) German law shall apply exclusively to the

contractual relationship.

(4) Any modifications or amendments to the contract must be in writing to take effect, unless a different form is required by law. This also applies to any change to the written form requirement itself.

(5) If one or more of the provisions of these General Terms and Conditions of Sale, Delivery and Payment should be ineffective, this shall not affect the validity of the remaining provisions. A replacement clause shall then apply, which best meets the legal and commercial purpose of the ineffective provision.

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