

General Business Terms and Conditions

of the company AIXtec Ingenieurgesellschaft mbH & Co. KG

As of: 09/2013

§ 1 Application

- (1) These general business terms and conditions apply to transactions with the company, and here also to all future business between the parties.
- (2) The general business terms and conditions apply exclusively. General business terms and conditions of the orderer only apply insofar as the user has agreed to them expressly in writing.

§ 2 Specification of services, copyright

- (1) The company AIXtec GmbH & Co. KG offers design and planning services in the form of service agreements.
- (2) A specific work result (work) is owed only if this has been expressly agreed. As a minimum, the agreement has to cover the essential specifications of the work product according to functionality, compatibility and compliance with (safety) standards.
- (3) Unless express assurances have been provided in writing, the user assumes no liability for the error-free functionality, compatibility and safety of prototypes.
- (4) Unless anything to the contrary is agreed, the copyright for all work results of the user is retained by the user. The orderer merely acquires simple usage rights to the extent required for the contractual purpose. The right to inventions that are developed as well as the right to patent them rests with the user.

§ 3 Prices, retention of title

- (1) All pricing in offers, promotional materials, on the website etc. are net prices plus VAT as required by law, unless prices are expressly identified as gross.
- (2) The place of performance is the registered office of the user.
- (3) Items that are delivered remain the property of the user until all claims of the user against the customer arising from the business relationship have been settled.

§ 4 Guarantee under contracts of work and labour or works supply contracts

- (1) A warranty for defects does not apply in case of only minor deviations from the agreed characteristics or only minor impairment of usability. In particular, a minor deviation exists if material wastage of up to 10 percent of the total material input occurs during the development of machines and/or prototypes.
- (2) Defects have to be reported in writing, specifying an adequate term for supplementary performance. Supplementary performance shall be at the discretion of the user by means of replacement delivery or the rectification of defects. Supplementary performance by means of the rectification of defects is deemed to have failed only after the second futile attempt. Legal cases of the dispensability of imposing a deadline remain unaffected. The place of fulfilment for supplementary performance is the registered office of the user.
- (3) Except in case of defects, the orderer can only withdraw from the contract if the breach of duty is within the control of the user. In case of breaches of duty, the orderer within an adequate term set by the user has to declare whether the orderer is withdrawing from the contract or insisting on performance.
- (4) Without prejudice to further claims of the user, the orderer in case of an unjustified notice of defects has to reimburse the user for expenditures incurred for inspection and – insofar as demanded – for rectification of the defect.

§ 5 Liability

- (1) In case of intent or gross negligence by the user or one of its representatives or assistants, and in case of the loss of life, physical injury or the impairment of health caused by slight negligence, the user is liable according to the applicable legal regulations. Otherwise the user is only liable pursuant to the Product Liability Act, or due to a culpable breach of essential contractual obligations, or insofar as the user has maliciously concealed a defect or issued a guarantee for the characteristics of work results. Claims for compensation due to the culpable breach of essential contractual obligations, for delays in performance or for unenforceability are however limited to the amount of damages typically foreseeable for this type of contract, unless another of the cases listed in sentence 1 or 2 applies simultaneously.
- (2) The provisions in the preceding paragraph apply to all claims for compensation, regardless of the legal basis, especially due to defects, the breach of contractual obligations, or illegal acts. They also apply to claims for the reimbursement of futile expenditures.

- (3) If the failure to meet deadlines is due to force majeure, e.g. mobilisation, war, unrest or similar events beyond the control of the user, such as strikes or lockouts, the deadlines are extended by the time for which the previously mentioned event or its effects lasted.
- (4) The right of the orderer to withdraw from the contract remains unaffected. The preceding provisions do not shift the burden of proof to the detriment of the orderer.

§ 6 Delivery

- (1) Delivery is according to an offer. No sooner than 1 week after exceeding the non-binding delivery day, the orderer can submit a written request to the user to deliver within an appropriate term; the user is in default upon receiving said request.
- (2) Fixed dates are not set.
- (3) Delivery is subject to correct and timely supply to the user. The user shall promptly inform the orderer regarding the non-availability of the delivery object and/or delays in the sequence of work. In case of withdrawal, the user shall promptly refund the corresponding compensation to the orderer.
- (4) If delayed acceptance by the orderer leads to a delivery delay, the user can bill storage charges at a flat rate of no more than 2 % per month (on a pro-rata basis if applicable), and up to no more than 10 % of the purchase price in total.

§ 7 Cancellation of the order

- (1) In case a contract for work and labour is cancelled, the general provisions of Section 649 of the German Civil Code (BGB) apply subject to the stipulation that the user is assumed to be entitled to 30 percent of the agreed compensation. The orderer reserves the right to provide proof of higher savings on expenditures.
- (2) Service contracts concluded for more than one subsequent phase can be cancelled with proper notice, respectively at the end of a phase. The right to extraordinary cancellation for an important reason remains unaffected.
- (3) Service contracts concluded without defined project phases can be cancelled with two weeks' notice in deviation from Section 621 of the German Civil Code (BGB). The right to extraordinary cancellation for an important reason remains unaffected.

§ 8 Payment

- (4) The agreed compensation is payable within 10 days from invoicing. Accepting an order can be made conditional on paying half the agreed price as a down payment, due upon the conclusion of the contract. Without any subsequent declarations by the user, the orderer is in default 30 days after the due date if payment has not been made.
- (5) If the customer is in default of payment pursuant to Paragraph 1, the user is authorised to charge a fee of EUR 5.00 for every reminder. The customer has the right to provide proof of lower actual damages.
- (6) Discounts are not granted.
- (7) In case of defects, the orderer does not have a right of retention unless the delivery is clearly defective. In such a case, the orderer only has a right of retention to the extent the retained amount is appropriate in proportion to the defects, and especially the costs of supplementary performance. The orderer does not have the right to assert claims and rights based on defects if payments have not been made as they come due, and insofar as the amount due (including payments already made) is appropriate in proportion to the value of the defective goods.

§ 9 Other provisions

- (1) Should individual provisions of these terms and conditions prove to be ineffective, the effectiveness of the transaction shall otherwise remain unaffected. The parties to the contract obligate themselves to replace the ineffective provision with an effective provision that comes as close as possible to the economic intent of the ineffective provision.
- (2) The jurisdiction for disputes arising from the contractual relationship is Aachen.
- (3) German law applies exclusively. The application of the reference provisions under international civil law, other international law and in particular the United Nations Convention on the International Sale of Goods is expressly excluded.