

# General Terms and Conditions of Business

## DEV Systemtechnik GmbH & Co. KG; 61169 Friedberg



### 1. General Stipulations, Scope of Application

All deliveries and (customer service) services shall be based on these General Terms and Conditions of Business. This shall apply even if DEV does not point out these General Terms and Conditions of Business to the customer again in the event of follow-up transactions. Deviating or supplementary agreements, particularly conflicting terms and conditions of business, shall be subject to the express consent of DEV Systemtechnik GmbH & Co. KG (DEV). All orders, any special representations made by DEV and all contract amendments shall require DEV's written acknowledgement (of the order). This form may only be waived by written agreement.

### 2. Implementation

DEV shall be entitled to contract third parties to render (partial) deliveries and/or (partial) services which are necessary for realisation of the order. When selecting subcontractors, DEV shall act at its own discretion, unless the Client expressly prohibits in writing the contracting of a certain undertaking.

### 3. Co-operation on the Part of the Customer

The customer shall support DEV in the course of the services to be rendered as agreed upon and shall create, free of charge, compliance with all prerequisites which are necessary on its part for proper rendering of the service. In particular, the customer shall name an employee who shall be available during the agreed working time, be able to provide DEV with all essential information and be authorised to make declarations which are necessary as decisions in the course of continuation of the work. Should the customer fail to comply with this duty of co-operation, or is late in doing so, DEV shall nevertheless be entitled to demand, for the service not rendered as a result thereof, the agreed remuneration less expenditures saved, without being obliged to subsequently perform. If DEV decides to nevertheless render the service, this shall only be effected after the time schedule has been adapted appropriately.

### 4. Prices, Payment and Default in Payment

The prices of products are on the basis of packaged ex DEV works Friedberg. DEV shall choose the carrier of the goods and pass on the costs to the customer. All prices stated are understood to be subject to addition of statutory VAT, disbursements, travel expenses, out-of-pocket expenses and incidental expenses. The travel, subsistence and overnight accommodation expenses shall be charged according to actual outlay. If the buyer is in default with any payments in relation to us, all existing receivables shall become due immediately.

### 5. Assignment, Factoring

We shall be entitled to assign the claims arising from our Terms and Conditions of Business. In the case of factoring, payments shall only have debt-discharging effect if made to VR FACTOREM GmbH, Ludwig-Erhard-Straße 30-34, 65760 Eschborn, to whom we have assigned our present and future claims arising from our business relationship. We have also transferred our retained title to VR FACTOREM GmbH. Set-off by the buyer with counterclaims is precluded, unless the counterclaims are undisputed or have been determined with legal finality. Assertion of any right of retention by the buyer is precluded unless it is based on the same contractual relationship or the counterclaims are undisputed or have been determined with legal finality.

### 6. Fixed Dates and Periods

All fixed dates and periods for DEV's deliveries and (customer service) services shall only be binding if they have been designated as binding by the customer and DEV. If non-compliance with a fixed period is due to reasons not imputable to DEV, the fixed period shall be extended accordingly. Any damage claims of the customer on account of late delivery or performance shall, for the period of default, be limited per full week to 0.5 %, but a maximum of 5 % of the order value concerned. The above limitation shall not apply insofar as DEV caused the default with intent or by gross negligence, nor in the case of a fixed-date sale within the meaning of section 376 of the German Commercial Code [HGB]. Insofar as the customer has cancelled a purchase order with DEV's consent, DEV shall be entitled to demand from the customer as compensation, without any further proof, 15% of the price for the corresponding delivery or service ensuing from the offer.

### 7. Retention of Title

DEV shall retain title to the products delivered until full payment of the purchase price and until performance. All processing of the goods subject to retention of title shall be deemed effected for DEV within the meaning of section 950 of the German Civil Code. This shall be solely for security purposes and shall not place DEV under any obligation. If the goods under reservation of title are built into external goods by the customer, DEV shall become the co-owner of the newly created products in the proportion of the value of the goods under retention of title to the external goods also used. The products created in such a manner shall likewise be deemed to be DEV's goods under retention of title. Insofar as the customer meets its payment obligations in relation to DEV, the customer shall be entitled to on-sell - only under retention of title - the goods subject to retention of title. Other types of disposition over the goods subject to retention of title, particularly pledging or transfer of title as security, shall be impermissible. If third parties seize the goods subject to retention of title, the customer shall point out DEV's title and notify DEV without undue delay. The customer shall indemnify DEV against all costs of an action under section 771 of the Code of Civil Procedure [ZPO], except where the third party actually settles those costs. The customer assigns to DEV here and now as security, in the sum of the value of the goods under retention of title, all receivables - including ancillary rights - to which it is entitled from on-selling or subleasing the goods subject to retention of title and from the business relationship with its purchasers in connection with the on-selling/subleasing of the goods subject to retention of title. DEV accepts this assignment here and now. The customer shall be authorised and obliged to collect the receivables assigned. If the customer defaults on payment, DEV shall be entitled to revoke

the authorisation to collect and give the customer's purchasers notification of the assignment and shall be entitled to repossess the goods subject to retention of title or, where applicable, demand assignment of the customer's claims to surrender of possession against third parties. The customer shall be obliged to provide DEV with the particulars necessary for collecting the receivables and hand over the pertinent documents. Repossession or attachment of the goods subject to retention of title by DEV shall not constitute rescission of the contract. DEV shall release the security interests at the customer's request insofar as their value exceeds by more than 20% all receivables to be secured. Unless the debtor is a consumer, rescission of the contract shall not be necessary for asserting the rights arising from retention of title.

### 8. Delivery and Performance

The delivery will be according to DDU Incoterms 2000 to the delivery address of the customer. DEV shall be entitled to make partial deliveries and render partial services to an extent which is reasonably acceptable to the customer. The periods for payment under no. 4 shall apply accordingly. Insofar as it has been agreed that certain products shall be installed at the customer and put in an operable condition, these shall be deemed to be operable unless faults are determined in the course of a functional test and DEV gives the customer notification of operability. Otherwise, DEV shall carry out the functional test at the DEV works in the course of the final inspection. The risk and costs associated with dispatching products ex works DEV, as well as the customs duties and taxes shall be borne by the customer. This shall apply even if DEV chooses the carrier. The risk shall pass to the customer upon commencement of loading onto the means of transportation. Any transport damage shall be notified by the customer to DEV without undue delay, but no later than within one week of receipt of the products.

### 9. Acceptance

DEV shall give the customer 3 weeks' advance written notice of readiness for acceptance by the customer. The performance shall be deemed unconditionally accepted unless written complaint is lodged by the customer with DEV's management within a 4-week period from hand-over, if no formal acceptance inspection takes place within 4 weeks of notification of readiness for acceptance or if the customer begins using the rendered service without having accepted it. If the customer defaults on accepting the performance, this shall not affect its obligation to pay the agreed remuneration. DEV's claims to compensation for any extra expenditures shall remain unaffected.

### 10. Duty to Inspect and Complain

The customer shall, without undue delay, inspect the delivered products with the thoroughness that can reasonably be expected of it and check the products' attributes. Detectable defects shall be complained of in writing by the customer to DEV without undue delay, stating the invoice and delivery number. Products complained of shall be returned by the customer to DEV in appropriate and shock-resistant packaging, insofar as this is reasonably acceptable. Hidden defects shall be notified to DEV in the same manner without undue delay after their discovery. If the customer fails to comply with its duty to complain and notify, the products delivered shall be deemed unconditionally approved.

### 11. Defect-related Rights, Warranty

DEV warrants to the customer that, at the time of hand-over to the customer, the services shall be usable and free from faults in accordance with the respective performance specification and product specification. The customer itself shall exclusively ensure that the services are suitable for the purposes intended. The same applies to compliance with the requirements of the product specification, such as environmental requirements and technical prerequisites for use of the respective product. Faults in the services shall be remedied by DEV without undue delay, by rectification or replacement at its discretion, on condition that the customer reports and describes the fault in writing in a comprehensible manner. If DEV fails to eliminate the fault within a reasonable period despite two attempts, the customer shall be entitled to rescind the contract in respect of the service concerned or demand an appropriate rebate. Any warranty shall cease to apply insofar as the customer or a third party called in by the customer opens a delivered product without DEV's prior written consent or any fault is due to the customer or a third party having altered, improperly used or repaired products without DEV's consent or having failed to install, operate or care for products in accordance with DEV's guidelines. The warranty period shall be 24 months. The costs and risk associated with transportation to DEV shall be borne by the customer.

### 12. Disposal and Environmental Protection

DEV undertakes to take back all packaging materials and properly dispose of them. The packaging material must be clean, free from foreign materials and sorted according to different packaging materials. Otherwise, DEV shall be entitled to claim from the customer the extra costs arising in the course of disposal. If any electrical or electronic scrap arises in connection with the service agreed upon, DEV shall act in accordance with the WEEE Directive. DEV is registered with the Foundation for Used Electrical and Electronic Equipment [Stiftung Elektro-Altgeräte Register, ear] under no. DE86060782.

### 13. Damage Claims

DEV shall be liable without limitation for losses caused by intent or gross negligence, as well as in cases of injury to life & limb and in cases of mandatory liability under the Product Liability Act [Produkthaftungsgesetz] for personal injury or property damage to privately used property. DEV shall be liable for destruction of data in the case of gross negligence only if the customer has ensured that the data are restorable at an acceptable outlay out of data material held in machine-readable form. Furthermore, DEV shall be liable for culpable breach of material contractual duties which jeopardises the purpose of the contract. In this case, the compensatory damages shall be limited to losses whose incurrence DEV could have reasonably foreseen at the time of conclusion of contract according to the circumstances known to DEV at that time. Compensation for purely pecuniary losses, for example loss of production or missed profit, shall be limited by the general principles of disproportion between the sum of the remuneration and the sum of the loss. No liability beyond the foregoing shall be assumed by DEV. DEV shall not be liable for losses arising from force majeure. Those are in particular operational disruptions caused by natural disasters, effects of war, wage disputes or similar events.

### 14. Industrial Property Rights and Copyrights of Third Parties

DEV shall indemnify the customer against (damage) claims of the property right holder in the event of infringement of industrial property rights or copyrights on account of a DEV product having been used in accordance with the contract. Moreover, in principle, DEV shall provide the customer with the right to further use the product. If this is not possible on economically reasonable terms, DEV shall, at its own discretion, either alter or replace the product in such a manner that the property right is not infringed or take back the product and reimburse the purchase price paid to DEV, less an amount corresponding to the age of the product. DEV's aforesaid obligations shall only apply if the customer informs DEV without undue delay of claims directed against it, if DEV reserves the right to take all defensive measures, including out-of-court settlements, and the infringement of property rights has not arisen as a consequence of a product delivered by DEV having been altered, having been used in a manner not described in DEV publications or having been used with products not delivered by DEV. This provision covers DEV's entire obligations in the event of claims in connection with infringement of industrial property rights or copyrights. The provisions of these General Terms and Conditions of Business relating to damage claims apply in addition.

### 15. Rights to Use Software

In respect of DEV software, external software (software developed by a software supplier independent of DEV) and the respective pertinent documentation, supplements thereto and other documents, the customer is granted a non-exclusive and non-transferable right of use for internal use on one computer system (all other rights to the software and the documentation, including copies and subsequent supplements, shall remain with DEV and/or the software supplier). Over and above the foregoing, the customer shall not be permitted, except with DEV's consent, to wholly or partly duplicate, adapt or translate the software or transform it from the object code to the source code. Sections 69d and 69e of the Copyright Act [UrhG] remain unaffected. The customer shall ensure that the software and documentation are not made accessible to third parties without DEV's prior written consent. In principle, copies shall only be made for archiving purposes, for backing up data and for fault diagnosis. Sentences 1 and 2 apply accordingly. Provision of source programmes shall require special written agreement. Insofar as the originals bear a notation referring to copyright protection, the customer shall also affix this notation to the copies. Except where otherwise agreed upon, the right of use shall, in each case, be deemed granted upon acknowledgement of the order and delivery of the software, documentation and subsequent supplements.

### 16. Data Protection

The customer's address shall be stored by DEV for speedy and error-free processing in electronic data processing. The data provided shall be treated as required by the stipulations of the German Federal Data Protection Act [Bundesdatenschutzgesetz] and the Teleservice Data Act [Teledienststatengesetz].

For the purpose of credit checking and credit monitoring, we shall exchange data with other credit service undertakings, for example the Protective Association for General Credit Assurance [Schufaf]. DEV shall not exploit or pass on customer data beyond the scope provided for in this stipulation.

### 17. Set-off, Assignment by the Customer

The rights resulting from the contract shall only be transferable by the customer with DEV's written consent. The customer shall only be entitled to set off against claims of DEV or assert a right of retention if the customer's counterclaim is undisputed or is final in law.

### 18. Applicable Law and Place of Jurisdiction

Except where otherwise agreed upon, the contract, the precontractual relations and these General Terms and Conditions of Business shall be subject to the laws of the Federal Republic of Germany. Application of the UN Sales Law (United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980) is excluded. The place of performance and place of jurisdiction is Friedberg. However, DEV shall be entitled to bring an action at any other legally justified domestic or foreign place of jurisdiction. If individual stipulations of the contract with the customer, including these General Terms and Conditions of Business, are or become wholly or partly ineffective, this shall not affect the validity of the other stipulations. The wholly or partly ineffective provision is to be replaced with a provision whose economic outcome reflects the ineffective provision as closely as possible in economic and legal terms.

As of: June 2009