

These Conditions form an integral part of all our offers and contracts for deliveries and performance of services, including those in casual, running or future business relations. Any agreements deviating from these conditions, and in particular customers' terms and conditions of business which are to contrary effect, as well as subsidiary agreements, require our express written consent in advance before becoming part of a contract.

## 1. Offer and Conclusion of Contract

- 1.1 Our estimates are always quoted without obligation and subject to change without notice.
- 1.2 Contracts with us only come into force and effect when we have accepted in writing orders received by us or have delivered the goods or performed the services ordered by the customer. This applies correspondingly also to orders by the customer directed towards addition or alteration to contracts.
- 1.3 All documentation made available to customers contain only approximations as customary in the industry unless otherwise expressly agreed. We reserve the right to make alterations to the documentation, the data and the goods themselves.
- 1.4 We retain ownership in and the copyrights to all documentation, systems, programmes and data carriers developed and made available by us. Our customer acquires the right of use exclusively for his own purposes underlying the contract in each case.
- 1.5 We reserve the right to performance tolerances, technical alterations, a change of model in the hardware and continued development of software (latest software version).

## 2. Advisory and/or Software Services

- 2.1 If we undertake to provide advisory and/or software services, the services to be provided by us are determined by a written specification of services (e. g. duties record book). In the case of serial and standard software our delivery specification of services.
- 2.2 The Customer may demand the handover of programme documentation for user software only in the event that the software was developed especially for him and the customer has paid all projection, programming and data collection costs.
- 2.3 We hold data and documentation made available to us with our customary degree of care as if it were our own. The customer shall for the purpose of being able to reconstruct it keep his own set of copies.

## 3. Services

- 3.1 We shall take the usual measures within the framework of services to ensure the smooth running of the data transfers and dialogue connections with protected procedures and access controls, so that the data reach the agreed target systems and dialogue connections are created only between approved participants.
- 3.2 In the electronic data information union we provide for the takeover and transfer of the data to the target systems. The possibility cannot be excluded that breakdowns and interruptions will occur as a result of faulty data stemming from interferences in data circuits, and/or faults lying in defective storage and processing in information processing systems of third parties.
- 3.3 We are entitled to continue to develop our teleport and BHT services through the introduction of modern and commercially efficient production equipment and facilities, such as hardware, software, current versions and the like. We shall notify our customer in writing of such alterations/adaptations at least 4 weeks in advance insofar as we recognise that they will lead to changes in the customer's information processing systems. Our customer shall thereupon immediately undertake the required alterations or adaptations on his premises.

## 4. Customer's Obligations

- 4.1 The customer undertakes to use his best endeavours to support us in the execution of contracts with him and to fulfil immediately at his own expenses the prerequisites to be furnished by him, such as making available in good time the necessary information and documentation and, where necessary, the required hardware and operating-system software.
- 4.2 The customer shall for the purpose of possible interruptions to the system set up an emergency organisation procedure to be discussed with us.

## 5. Reimbursements

- 5.1 All reimbursements to be made to us are quoted net in EURO plus Turnover Tax at the statutory rate at any time.
- 5.2 Any transport costs and insurance premiums incurred shall be paid by the customer separately.

## 6. Payments

- 6.1 After receipt of our invoices the customer shall remit the sums invoiced by dbh immediately without any deductions.
- 6.2 We accept bills of exchange only after prior agreement and subject to their discountability. Bill-of-exchange and cheque amounts are credited only as soon as the countervalue, including ancillary costs, is at our unconditional disposal and no earlier. Any discount charges and additional expenses are charged to the customer and shall be reimbursed to us on demand.
- 6.3 We are entitled to invoice our customer from the due date with interest at the rate of 8 % p. a. above the ruling discount rate plus any commission and costs. We reserve the right to claim further losses incurred. Where payment by instalments has been agreed and the customer defaults in whole or in part with two consecutive instalments, the entire amount outstanding becomes immediately due and payable.
- 6.4 Where, after conclusion of the contract, circumstances become known which give reason for grave doubts about the solvency or creditworthiness of the customer (e.g. delay in payment, failure to honour bills of exchange or cheques on the due date), we are entitled to refuse performance of the obligations incumbent on us until the customer effects his counterperformance and has fulfilled our due claims - including any arising out of other transactions in a running business relationship - or has provided security therefore.

## 7. Assignment/Set-Off/Retention

- 7.1 Our customer is not entitled to assign claims against us to third parties without our written consent in advance.
- 7.2 Set-off with counterclaims of the customer is only admissible insofar as these counterclaims are not disputed by us and are due or have been finally established in law.
- 7.3 Our customer is not entitled to assert rights of retention against us on the grounds of any counterclaims; Para. 7.2, however, applies accordingly.

## 8. Deadlines/Dates

- 8.1 Deadlines quoted by us begin to run with the date of our written declaration of acceptance, but not, however, before the customer has produced the documentation to be provided by him and/or has effected other necessary preconditions, such as setting up an emergency organisational procedure, and/or has made any payments due.
- 8.2 Deadlines envisaged are extended appropriately if the contract with our customer is altered or amended or if our customer fails to fulfil his duties to co-operate in due time.
- 8.3 Deadlines and dates quoted are only binding if they were agreed in writing. Labour disputes, force majeure, transport disruptions and other extraordinary circumstances release us from our performance obligation for the duration of their effects.
- 8.4 If our supplier/subcontractor fails for reasons for which we are not culpable responsible to perform services at all or to perform services in sufficiently good time that we can fulfil our delivery or performance obligation at the due time, we have the right to withdraw from the contract with the customer insofar as relating to the services not performed.
- 8.5 Part deliveries and partial performance of services is admissible; Para. 12 applies to these accordingly.
- 8.6 Claims by the customer for compensatory damages for late delivery/performance of services or for non-delivery/non-performance of services are restricted in amount to the tender- or invoice-sum which is the basis for the delivery/service in each case. Otherwise Para. 13 applies accordingly.

## 9. Acceptance/Taking Delivery

- 9.1 The customer shall accept and take delivery of the goods supplied/services performed in each case after receipt of the goods or performance of the services, but at the latest after receipt of our invoice.

- 9.2 If the customer does not accept/take delivery of the goods supplied/services performed, we are entitled after expiry of an appropriate deadline to refuse to fulfill the contract and to demand compensatory damages for non-fulfilment, which at our discretion shall be reimbursement of the actual loss or, without proof of a loss, 10 per cent of the agreed price.

## 10. Place of Fulfilment/Transfer of Risk

- 10.1 The place of fulfilment for our deliveries and services is Bremen, unless something to the contrary is evident from the particular contract in each case.
- 10.2 The risk passes to the customer upon acceptance/taking delivery.

## 11. Reservation of Title

- 11.1 We retain title to the goods delivered and/or installed by us (hereinafter referred to as "Goods subject to Retention of Title") until full settlement of all claims (including all claims to the balance on running accounts) to which we are entitled under this contract and arising out of the business relationship with the customer, regardless of legal basis, and which arise upon conclusion of the contract or had already arisen by that date or which will only arise out of the business relationship in the future.
- 11.2 The customer is entitled to sell to his customers, to process or to combine and then sell within the framework of extended reservations of title insofar as this takes place in the ordinary course of business. Not permitted is, in particular, any pledging or transfer of ownership by way of security of the goods subject to Retention of Title by the customer.
- 11.3 The customer hereby assigns to us in advance by way of security the claims to which he is entitled in connection with the further sale of the Goods subject to Retention of Title, plus ancillary rights, as well as any claims against his insurer. Insofar as the Goods subject to Retention of Title are sold by the customer together with other goods not belonging to us, whether with or without processing etc., such claims etc. are assigned to us to the extent of the invoice value of the Goods subject to Retention of Title.
- 11.4 At the request of the customer we are obliged to transfer back to the customer our title to the Goods subject to Retention of Title and the claims assigned to us to the extent that their value exceeds the value of our total claims against the customer by more than 20 %.

## 12. Warranty

- 12.1 For defects and the absence of guaranteed features which are notified to us in writing by the customer immediately after discovery and which can be proved to be the result of faulty services or material- or construction faults for which we are responsible, we warrant exclusively that we shall at our discretion either remedy the defect or supply goods or spare parts free from defects. The customer is entitled to cancel the contract or to reduce the price only if and when remedy or replacement delivery is not possible in the individual case, has been culpably neglected despite written demand by the customer giving an appropriate period for compliance or attempts to remedy have repeatedly failed. Other claims by the customer on the grounds of any possible defects or the absence of guaranteed features - in particular also for consequential losses - are excluded, unless we are guilty of gross negligence; otherwise Para. 13 applies accordingly.
- 12.2 We are obliged to remedy defects or supply replacement goods only after payment of an appropriate proportion of the agreed price taking into consideration the nature of the defect.
- 12.3 dbh warrants that the goods delivered or services rendered meet the essential requirements with regard to function, that they comply with generally recognized rules of technology, and that they do not exhibit any defects which invalidate or impair their value and suitability for normal use or for the use envisaged by the contract. As regards the access by the customer, dbh guarantees an average availability of at least 90 % per month. In the case of malfunctions or interruptions, dbh will without delay take all the steps which may be necessary to make the service available again as soon as possible.
- 12.4 Any warranty claims and claims to compensation for consequential losses resulting from the defect become time-barred 12 months after the transfer of risk (cf. Para. 10).

## 13. Liability

- 13.1 The liability of dbh in conjunction with this contract is - irrespective of the legal grounds - expressly excluded, especially the strict liability as per § 538 BGB (German Civil Code). Insofar as the liability of dbh is excluded or limited, this shall also apply to the personal liability of the employees, representatives and vicarious agents of dbh. The foregoing exclusion of liability shall not apply insofar as the damage was caused with intent or by gross negligence. Further, it shall not apply for claims arising on the basis of the Product Liability Act as well as in cases of injury of the life, the body or the health. Should dbh through negligence fail to comply with any contractual obligations, the liability to compensate for damage shall be limited to the foreseeable and typical damages as follows:
 

● for personal injury	to EUR	250,000.--
● for damage to property	to EUR	25,000.--
● for pecuniary losses	to EUR	10,000.--

- 13.2 We are not liable for losses arising from the fact that interruptions are caused by faulty data resulting from interferences in the data circuits and/or faults which lie in the storage and/or processing in other data processing systems.
- 13.3 If in the individual case we have guaranteed a feature in writing, we are liable for consequential losses resulting from defects only if this has also been expressly agreed in writing.
- 13.4 If goods are given to us to be held in custody, they are held with our customary degree of care for our own goods at the expense and risk of the customer.
- 13.5 dbh is not liable for the bad-performance, non-performance or delay in the performance of their duties to cooperate and/or contractual obligations, if it is based on an unforeseen event (e.g. a natural disaster or strike) or outside the influence of dbh. In such a case dbh will inform its contracted partners immediately at the onset of these events and notify them of the effect to the contract. deadlines would be extended to a reasonable period of time.
- 13.6 By way of protection against the consequences of the foregoing liability exclusions and restrictions, we recommend the customer to cover the corresponding risks, insofar as possible, through conclusion of appropriate insurance contracts.
- 13.7 Any claims for damages by the customer are subject to the time-barring period applying for warranty claims as per Para. 12.4. However, this provision shall not apply where longer periods are prescribed by law according to § 438 Para. 1 No. 2 (Buildings and Objects Used for Buildings), § 479 Para. 1 (Right of Recourse), and § 634a Para. 1 No. 2 (Defects of a Building) of the German Civil Code ("BGB"), as well as in cases of injury to life, body or health, or where dbh with intent or gross negligence fails to fulfil its obligation or fraudulently conceals a defect, neither shall it apply to claims for damage according to the Product Liability Law.

## 14. Data Protection

We are entitled to store data relating to our customers on computer and to process and use these data in accordance with the statutory regulations for our operational business purposes.

## 15. Jurisdiction/Applicable Law

- 15.1 The exclusive place of jurisdiction for both parties for all disputes arising directly or indirectly out of the contractual relationship, including written deeds, bills of exchange and cheques, is Bremen (the courts of the City of Bremen).
- 15.2 The law of the Federal Republic of Germany shall apply; the application of the United Nations Convention on Contracts for the International Sale of Goods dated 11.04.1980 is excluded.

## 16. Partial Nullity

If individual provisions of a contract for deliveries and services of which these Conditions form a part are or become null and void, the validity of the remaining provisions of that contract is unaffected thereby.