

## General delivery terms and conditions

Edition 1/2008

### Business Domains: Electrical Engineering and Software

#### I. PREAMBLE

Zimmer Textile Technology GmbH (=contractor) offers the following services depending on the intended scope of order:

- planning concepts for the automation of technical processes
- training and advisory service in the field of control engineering
- creation and conditioning of software
- implementing, maintenance and repair of plant and machinery
- merchandising electronic equipment and accessories

The present general terms of business regulate the general terms and conditions between the client and the contractor additionally to the stipulated contract.

#### II. COVERAGE

The general business terms and delivery conditions apply to all services and deliveries by the contractor. Different terms and conditions laid down by the client are not valid even in the case the contractor does not contradict in individual cases. They also apply to future dealings, especially to extensions and changes within the framework of existing contracts, even though there is no direct reference.

The Austrian electrical and electronic industry's general delivery conditions and the software conditions of the electronic industry (as applicable over time) [issued by the Association of Electric Industries Austria] apply in addition to the general business terms and delivery conditions of the contractor.

The contractor's duties exclusively comprise the scope and the content of the contract awarded by the client and accepted by the contractor as well as a contract note by the contractor including the general terms of business.

#### III. SERVICES

Depending on the type of contract the contractor charges fees as given in the current pricelist. The contractor charges fees either for time of performance or according to volume of work performed depending on the stipulated technical qualities of the service.

The contractor takes no responsibility for third party acts in the network and he takes no responsibility for damages caused by a third party in the course of networking or because of its failure.

The contractor is entitled to authorize other contractors to perform services on the basis of the contractual relationship.

#### IV. PRICES AND TERMS OF PAYMENT

The prices mentioned in the contract are valid unless it is otherwise expressly agreed in the contract.

The payments by the client are – regardless to differing dedication – taken into account for paying overdue interest, then for reminder and encashment costs including the costs for a dept collection agency or the current costs for a lawyer in an extrajudicial encashment, and finally they are taken into account for outstanding debts either in order of payment dates or at the contractor's choice. If there is a default of payment for fourteen days, the contractor is authorised to stop services from the service contract until full payment. Before stopping the service the client has to be informed in writing. In consequence of default of payment the contractor is allowed to charge a reminder fee for each reminder. He is allowed to charge at least 10 Euros in addition to the purchase tax. Furthermore the client has to pay for all adequate costs in case of law enforcement including any costs for a lawyer in an extrajudicial encashment. The compensation with receivable bills towards the contractor and the retention of payments because of claimed defects, which were not accepted by the contractor, are forbidden. In case of default of payment the contractor is allowed to charge default interest in the amount of 1 % p.m. above the current bank rate of the Austrian National Bank in addition to the purchase tax.

Delivered goods remain in possession of the contractor without restrictions until full payment, according to the reservation of title.

## V. CANCELLATION OF A CONTRACT, PREMATURE TERMINATION OF CONTRACT

The contractor is able to cancel service contracts for important reasons with immediate effect.

Such important reasons arise, if

1. the client is completely or partially behind schedule with payments despite reminder and respite of fourteen days.
2. the client infringes upon an essential provision of the contract or the general terms of business.
3. clearing, insolvency proceedings or preliminary proceedings as per clearing arrangement are opened over the client's capital.  
the opening of such a procedure is rejected for want of cost effective capital.  
some executions are pending against the client  
the client has stopped his payments  
the client has applied extrajudicial for moratorium
4. the client closes, sells or leases his company or falls into liquidation  
the client dies or becomes incapable of action
5. the client has given false information or has kept facts secret that would have kept the contractor from signing the contract, when placing the contract.

In case of a premature termination of the contract caused by the client – for what reason ever – the contractor is entitled to get prompt liquidated damages. The amount depends on the date of the premature termination of the contract and the time until the expiration of the primarily agreed or prolonged duration of contract.

In case of prepayment the client is allowed to keep received considerations independent of the extent of the performed work.

## VI. LEGAL SUCCESSION

The client is – independent of the above agreed authorisation of the contractor for a premature termination of contract - obligated to impose this contractual relationship upon his possible legal and universal successor if the contractor gives his agreement to this transfer of contract in written.

## VII. OBLIGATION AND DUE DILIGENCE OF THE CLIENT

The contractor assumes no liability if the delivered software is modified or not correctly used. Additionally he assumes no third party liability in that case.

The client's signature on the contract approves that he owns the rights of use, especially the intellectual property rights, trademark protection rights, model protection rights and other similar rights and that he has paid all fees for the exercise of these essential rights for data and exhibitions like texts, photos, videos, music and similar things, that he provides the contractor and that help the contractor to produce the ordered services (webpages, programmes, multimedia applications, graphic design and similar). Concerning this matter the liability of the contractor is excluded. The client affirms to indemnify the contractor and that he keeps the contractor completely unrepining. This particularly applies to intellectual property considerations, for example against the AKM or Austro Mechana or things like that, which are not due at the time of contract preparation. These intellectual property considerations are to be borne by the client.

## VIII. JURISDICTION, CHOICE OF LAW

Substantive Austrian law is agreed upon for all legal disputes based upon the contractual relationship independent of the client's nationality, place of residence or location of company. This agreement constitutes the choice of law according to Austrian Law beyond International Private Law. Austrian Law applies even when the International Private Law refers to foreign law.

The court with jurisdiction over the subject matter is agreed to be the court in Klagenfurt with regard to all disputes under the contract.