

## General Terms and Conditions of Business of CE cideon engineering GmbH & Co. KG (Status: June 01, 2021)

### 1. Scope of these Terms and Conditions

- 1.1 These General Standard Terms and Conditions (GSTC) apply to all contractual and pre-contractual relations of CE cideon engineering GmbH & Co. KG - hereinafter referred to as CE - with companies, businessmen, legal entities of public law, or public-law special funds – henceforth referred to as Customers – irrespective of whether the issue at hand deals with the fulfillment of primary or secondary duties. They also apply to all future business relationships with the Customers of CE.
- 1.2 These GSTC are subordinate to different or additional agreements stated in the written offers and/or the written order confirmations issued by CE. Different, additional, or contrary terms and conditions of the Customer shall not apply, even if in his order or his enquiry the Customer refers to the exclusive application of his GSTC.
- 1.3 Furthermore, different, additional, or contrary GSTC of the Customer shall not apply, even if CE is aware of these terms and conditions and return a pre-formulated confirmation letter to the Customer or if CE carries out the services without reservations. The GSTC of CE's Customer shall only apply if an authorized body of CE, a holder of commercial authority, or an employee with individual power of representation explicitly acknowledges them by means of a written or verbal confirmation.

### 2. Formation of Contracts

- 2.1 CE renders engineering services in the form of independent and autonomous execution of plans, designs, drawings, calculations, construction and production of prototypes, trial testing and registration support, series preparations, project support, certification measures, development orders, development services as well as additional engineering services from the entire technical services sector (hereinafter referred to as "engineering services").
- 2.2 A contract with CE shall be deemed concluded when the customer accepts CE's offer in writing or when the customer receives a written order confirmation from CE in response to his verbal order, sent by fax or e-mail.

If CE accepts the offer to conclude a contract (e.g. an order by our Customer), the order confirmation of CE governs the content and scope of the contract, unless explicitly agreed otherwise.

- 2.3 We shall only be bound by verbal subsidiary agreements, confirmations, and other verbal agreements when they have been explicitly given in written form by CE.

### 3. Execution of Orders and Customer's Obligation to Cooperate

- 3.1 Unless explicitly agreed otherwise, CE only owes those services that have been explicitly agreed upon in the contract, which CE performs in line with the generally accepted rules of the field and the regulations required by law, being applicable in the moment of signing the contract. The employees of CE shall not be bound by any third-party orders when they work on assessments or write reports. The right to instruct its employees especially introductions, instructions and supervision is solely vested in CE. CE reserves the right to subcontract the rendering of contractual services.
- 3.2 CE realizes services for the Customer principally at the offices of CE. Delivery is consequently made at the risk and cost of the Customer. Insofar as CE must execute services, CE determines the place of execution of the services.
- 3.3 CE is not liable for any damaged property of the Customers of CE that occurs as a direct consequence of the proper performance of services of CE. If the own equipment of CE is damaged or lost as a direct consequence of the proper performance of services and through no fault of CE, CE are entitled to claim compensation from our Customer for lost value pursuant to Article 670 of the German Commercial Code (BGB). The Customer bears the expenses and risks for the transportation of his property to a location (and possibly returning from the location); the return transportation however, only takes place upon the explicit request of the Customer. With respect to the storing of the property, the liability of CE is only limited to its normal care and diligence.

- 3.4 The Customer has to fully inform CE about all information and facts, including applicable statutory laws and standards, that are relevant for the performance of the services of CE. CE is not obligated to verify the completeness and accuracy of the data, information, and other services that the Customer provides to CE, as long as there appears no need to do so, giving due consideration to the specific individual case.

- 3.5 In case the performance of the services of CE requires one or several acts of cooperation from the Customer, the Customer is obligated to provide this cooperation at his own expense if we so request; expenses will only be reimbursed if this has been previously and explicitly agreed. If the Customer does not fulfill his obligation to cooperate, does not do so in time, or does not do so adequately in spite of a written request referring to the regulation of this provision (Section 3.5, sentence 2 of these GSTC), CE is entitled to charge him for the additional expenses that CE incurs as a consequence of his negligence. CE further reserves the right to enforce additional legal claims.

- 3.6 The transfer of Engineering Services is subject of a prior written consent by CE. This shall also apply for the affiliated companies of the Customer. The transfer of engineering performance is at the sole risk and responsibility of the customer.

### 4. Fees / Prices and Payment

- 4.1 The prices valid at the time of or from an individual offer are binding for the parties. Value added tax (VAT) and other legal duties in the country of delivery as well as possible costs for packaging, transport insurance or environmental compliance fees, as well as shipping costs will be separately billed in the invoice.
- 4.2 Payments are due, if there is no agreement to the contrary, within 14 days after date of the invoice with receipt of the payment at CE without deduction by observing the currency as indicated by invoice.
- 4.3 If CE renders Control and Application Software, the invoiced amount is due as lump-sum-payment as per clause 4.2.
- 4.4 If CE renders engineering services and/or other pertinent services, 30% of the relevant order sum is to be paid by the Customer to CE immediately upon confirmation of the order or placement of the order. The Customer is obligated to pay CE an additional 30% of the order sum upon the according indication of the beginning of service by CE.
- 4.5 CE reserves the right to invoice an additional 30% of the order sum upon the execution of half of the services to be rendered. The Customer must pay the remaining 20% of the order sum upon the conclusion of the ordered services.
- 4.6 The Customer only has the right to claim a set-off if his counterclaims have been legally upheld, if they are undisputed or if CE has confirmed them in writing. The same shall apply to the claim of rights of retention.
- 4.7 If after entering into the contract CE learns about facts that may significantly lower the credit worthiness of the Customer, CE is entitled to perform remaining services only in exchange for early payment or other forms of security and to terminate the contract after futile expiry of a respective deadline.

4.8 In the case of late payments the Customer owes CE default interest in the amount of 8 percentage points above the actual key interest rate of the European Central Bank – ECB as well as compensation of the collection costs. The compensation for recovery costs shall be 1 per cent of the amount for which interest for late payment becomes due. We reserve the right to claim higher damage.

4.9 Multiple Customers are jointly and severally liable.

## 5. Modifications

5.1 If the Customer requests modifications or supplements to the order after placing said order, CE will inspect said modifications or supplements and insofar as it is possible to execute said modifications or supplements, CE will inform the Customer regarding the claim for additional charges above and beyond the valid prices at the time of order. The Customer accepts the resulting postponement of the delivery deadline for a reasonable amount of time though said delay is not caused by CE.

5.2 With modifications or other conditions after conclusion of the contract, from which higher demands and/or increased expenses and/or postponement of the delivery deadline result for CE, Customer, subclause 1 shall apply accordingly.

## 6. Deadlines, Dates, Delay, and Impossibility of Performance

6.1 Deadlines and dates are always non-binding, unless they have been explicitly described as “binding” in the offer of CE or order confirmation. In cases where they are non-binding, CE is only in delay when the Customer has given CE an appropriate deadline for fulfilling the services that CE owes and has done so in writing and without a result. In any and all cases deadlines only become effective upon the full and complete cooperation that CE requires from the Customer as well as possibly upon the receipt of the agreed prepayment. Belated requests for changes or belated acts of cooperation from the client automatically extend the period of performance accordingly.

6.2 In the event of delays in performance for which CE is not responsible, e.g. labor disputes and all circumstances independent of the will of the parties, such as fire, war, general mobilization, insurrection, requisition, seizure, embargo, restrictions on energy consumption, foreign exchange and export restrictions, epidemics/pandemics (e.g. covid-19, etc.), natural disasters, extreme natural events, acts of terrorism, and defective or delayed deliveries by subcontractors due to the circumstances listed in this clause, as well as other cases of force majeure or similar events or due to an act or omission of the Customer, etc., which temporarily make it considerably more difficult or impossible for CE to perform, CE shall also have the right, in addition to the right of withdrawal or termination, to extend the performance period by the duration of the disruption plus a reasonable start-up period.

6.3 If the performance time is extended due to such circumstances, the customer cannot derive any claims for damages from this.

6.4 The aforementioned provisions (6.2) also apply when there is a disruption at the supplier of CE or their sub-suppliers.

6.5 If the Customer is late in accepting the performance of services of CE and/or if he does not comply with any other obligations to cooperate, CE reserves the right to charge him for any expenses CE has incurred, including potential additional costs, after CE has unsuccessfully given him an adequate deadline.

6.6 If CE is in delay or unable to carry out the performance of the services of CE due to reasons for which CE bear responsibility, the liability of CE in the case of slight negligence shall be limited to the – subject to the kind of order - predictable, typical and direct average damage. Further claims for delay are exclusively governed as per clause 11 of these General Terms and Conditions.

## 7. Installation Services

7.1 If installation services are part of the range of services supplied by CE, the Customer must supply at its own expense the required auxiliary personnel, necessary materials, such as tools and computer time, electricity and any similar necessities. Additionally the Customer is responsible for the safe storage of materials and tools of CE at the place of installation.

7.2 Before the beginning of the installation work, the Customer must punctually provide or make available unsolicited the necessary information regarding the layout of the installation area and all installed electricity cables, gas and water pipes, or other similar systems as well as the required statistical information.

7.3 If the installation or commissioning is delayed by circumstances for which CE is not responsible, the Customer must bear all costs for downtime and overtime as well as additional required emergent travel expenses of the personnel of CE or the engaged subcontractors.

## 8. Acceptance

8.1 Upon delivery the Customer must immediately inspect the delivered items to ascertain whether the delivery is complete and in conformance with the declared contractual foundations under §2 of these GTCs.

The risk of accidental loss or accidental deterioration shall pass to the Customer upon dispatch, this also applies if CE should have agreed to partial deliveries or to take on additional obligations to be performed, e.g. forwarding costs, delivery and assembly.

8.2 If the service of CE calls for an acceptance by the Customer, CE has the right of an acceptance test as well as a partial acceptance test for its rendered services, insofar as said services are rendered and can require each time a partial acceptance test according to contractual delivery of services of the current project step. The Customer must accept within three weeks upon written indication of the readiness of acceptance of the delivered services or partial services and must sign the acceptance test records created for this purpose. If the Customer does not make acceptance within the above-mentioned deadline, although the Customer is obligated to do so, or if circumstances come to bear in which acceptance is not made because of the actions of the Customer, these services or partial services are valid at the latest three weeks after the notice of the readiness of acceptance quasi with the operation by the Customer. Small defects that do not have a significant impact on the quality and/or usability of the service as it was laid out in the contract constitute no ground for the Customer to reject the service, without prejudice to his right to call for the remedy of the defects within an appropriate time frame.

8.3 If dispatch and/or acceptance is delayed or omitted due to circumstances, not attributable to CE, the transfer of risk shall pass to the Customer in the moment of notification of readiness for dispatch and or acceptance. CE commits itself to conclude the respective insurance at the expense of the Customer, if he requests so.

8.4 Partial deliveries are permitted, as far as they are reasonable for the Customer.

8.5 If the Customer makes use of the service or parts of the service, the acceptance is considered to have taken place ten working days after the Customer has started using the service or parts thereof, unless otherwise agreed. CE will specifically point this out to the Customer at the beginning of this ten-day period.

8.6 Intellectual services are considered accepted unless the Customer expresses his objection in writing and no later than 30 days after receipt thereof. CE will specifically point this out to the Customer at the beginning of this thirty-day period. If the Customer does express his objection, CE will review its service.

If it turns out that there are no grounds for the objection, the Customer will bear the additional costs CE has incurred.

## 9. Retention of Title

- 9.1 All deliveries and services to be provided by CE remain the sole property of CE until all payment claims arising from the business relationship have been satisfied. No pledging, transfer of ownership by way of security or other exploitation shall be allowed unless the goods were specifically acquired for re-sale purposes. In that case the Customer shall have the revocable right to resell the retained goods in its own name within the scope of an orderly conduct of business, provided that it is not in default of his financial obligations towards CE and the assignment of claims is not prohibited by law or by agreement between the Customer and its purchasers.
- 9.2 In case of combination or mixing, CE shall acquire co-ownership, with CE's share being determined by the invoice value (delivery / service price including value added tax without cash discount deduction); insofar as the customer acquires sole ownership by operation of law, he shall transfer proportionate co-ownership to CE accordingly and shall keep the item(s) safe for CE. Any processing shall be carried out for CE.
- 9.3 The claims arising from the resale or any other legal ground (e.g. insurance, tort etc.) with regard to the delivery and service to which CE is entitled to a co-ownership share, including all balance claims from current account, are already now assigned by the customer to CE by way of security in the amount of the invoice value. This shall apply even if according to the above restrictions a resale was not permitted. CE hereby accepts the assignment. If CE is only entitled to co-ownership of the delivery and service, the advance. If CE is only entitled to co-ownership of the delivery and service, the advance assignment shall be limited to that part of the claim which corresponds to the share of co-ownership of CE on the basis of the invoice value.
- 9.4 The Customer shall have the revocable right to collect the assigned claims in its own name and for his own account. This authorization may be revoked if the Customer does not duly fulfil his payment obligations. In case of a justified revocation, the Customer or its legal successor or liquidator respectively shall upon the request of CE disclose the assigned claims and the names and addresses of the debtors. In addition, it shall provide CE with all information necessary for the collection of the claims and all relevant documentation and shall immediately notify the debtor of the assignment.
- 9.5 Should the reserved goods and services be seized by a third party, the Customer will indicate the ownership of CE and notify CE immediately as CE can assert its ownership rights. Moreover the Customer shall at the request of CE immediately bring a third-party intervention against execution in accordance with Section 771 German Code of Civil Procedure (Zivilprozessordnung) in its own name but on behalf of CE (gewillkürte Prozessstandschaft). The customer shall bear all court and out-of-court costs that have to be incurred in order to cancel the seizure and to recover the reserved goods and services, unless they can be obtained from third parties.
- 9.6 If the Customer is in default of payment, CE is entitled to revoke the contract subject to the statutory provision and at the same time reclaim the reserved goods and services at the Customer's expense.
- 9.7 The above securities will be released upon the Customer's request at the discretion of CE, if and to the extent that their value continuously exceeds the value of the secured claims by more than 10%. The realizable value of the reserved goods and services is held to be their estimated value reduced by one third, the realizable value of claims assigned by way of security their nominal value reduced by one third.

## 10. Liability for defects

The liability for defects of quality and defects of title shall be exclusively governed - under reservation of clause 11 - as follows:

- 10.1 The Liability for defects of CE covers the application and the compliance with generally accepted rules of technology being applicable at the time of concluding the contract and in line with industry standard. For any and all development projects CE assumes no responsibility for actually attaining the desired objective stated in the contract or to do so within the agreed schedule.
- 10.2 The Customer is obligated to inspect the executed services and goods from CE immediately and to check said delivery of executed services and goods for possible deviations in order quantity and to check said executed services and goods for defects. Insofar as deviations or defects are discovered, CE is to be immediately informed of said deviations or defects claims in writing.
- 10.3 If dimensions are the basis for the execution of services of CE, such given dimensions are the binding contractual basis for multimedia, drawings, designs, CDs etc. CE is not liable for these given dimensions by the Customer.
- 10.4 In case CE has provided a flawed service the Customer is obligated to give CE the opportunity to belatedly comply with its obligations within an adequate period of time of at least two weeks. If the belated performance is unsuccessful, the Customer is only able to require a reduction in price (impairment) or the rescission of the contract (termination). Such reduction shall under no circumstances exceed 15 per cent of the purchase price. In the case of a minor breach of contract, especially in cases of only small defects, however, the Customer is not allowed to rescind the contract. As long as the defects are not the result of negligence or willful misconduct in complying with the duties of CE, the Customer is not allowed to rescind the contract.
- 10.5 For the performance of all at their reasonable discretion appearing rectifications or replacement deliveries, the Customer must make its place of business or its place of production available to CE within its normal business times with enough time and ample opportunity for the implementation of the necessary measures for rectification or replacement.
- 10.6 The costs that are incurred due to belated compliance shall be borne by CE. Additional costs, which are incurred due to the transfer of the item or product on which CE has performed its services to another location than the one that was agreed on in the contract (place of performance), shall be borne by the Customer.
- The Customer's rights with respect to defects that do not relate to a building or similar works, providing planning and monitoring services for buildings, are subject to a limitation period of 1 year after the moment of delivery respectively with the transfer of risk respectively at the moment the work has been accepted – what is earlier. This short period of limitation does not apply in cases where CE is grossly negligent or in cases where CE has caused bodily or health-related harm or the loss of life. The liability according to the Product Liability Act also remains unaffected.
- 10.7 Defects and/or damage are excluded from the warranty and/or the liability of CE, which are due to improper usage, operating error and negligence on behalf of the Customer and/or persons attributed to the Customer, through which the resulting said improper usage, operating error and negligence of the product causes fire, lightning, explosion or network-caused excess voltage, improper or defective programs, software and/or processing data as well as any consumables, unless the Customer can prove that these are not the cause of the claimed defect. The warranty is also cancelled upon intervention in the engineering services or other modifications during the war-

ranty period by anyone other than CE and any authorized third parties by CE.

- 10.8 In cases of fraudulent concealment of a defect or the assumption of a guarantee for the condition by CE, further claims of the Customer remain unaffected.
- 10.9 For the realization of estimates of forecasts in cases CE provides a warranty or accept damages (subject to Section 10 respectively 11 of these GSTC) only where this has been explicitly agreed.
- 10.10 If the investigation of the defect claim yields that a warranty claim case does not exist, CE has the right to claim compensation for all expenses and to invoice said expenses, insofar as it does not deal with marginal expenses.

## 11. Liability / Damages

- 11.1 Claims for damages against CE are generally excluded.
- 11.2 This shall not apply:
- in the event of grossly negligent or intentional breach of duty or
  - in the event of a culpable breach of essential contractual obligations (essential contractual obligations are those whose fulfillment makes the proper execution of the contract possible in the first place and on whose fulfillment the contractual partner regularly relies and may rely or
  - in the event of injury to life, limb or health of persons, or
  - insofar as CE is subject to mandatory liability under the Product Liability Act or
  - insofar as liability is mandatory by law.
- 11.3 If CE can be claimed for payment of damages in case of breach of essential contractual obligations due to simple negligence, its liability shall be limited to the amount of the typical foreseeable damage.
- 11.4 A liability for damages for the freedom from rights of third parties shall not be assumed, unless there is an intentional or grossly negligent breach of duty of CE and/or its vicarious agents. If the result cannot be used in whole or in part due to existing interfering property rights, CE shall submit to the orderer suitable proposals for clarification of the legal situation as well as joint action against a third party with the aim of eliminating the defect as soon as it becomes known.
- 11.5 In so far, as liability is excluded or limited in accordance with the provisions under Clause 11, this shall also apply to claims in tort as well as to the personal liability of the bodies of CE, its staff, workers, employees, representatives, contractors and subcontractors.

## 12. Industrial Property Right, Copyright, Right of Utilization

- 12.1 If results that are worthy of protection emerge during CE's provision of services that are subject of the contract, CE shall be the owners of these rights. CE shall bear the costs that are incurred during the copyright protection process.
- 12.2 If the Customer requires licensed copyrights or know-how from CE that is worthy of protection in order to utilize the services of CE, this know-how may only be utilized commercially based on a separate patent/know-how license agreement made with CE.
- 12.3 CE shall receive a free, non-exclusive right of utilization of all copyrights and/or industrial property rights for which the Customer is a joint author and that emerge during our provision of contractual services. CE is entirely free to use these rights when CE works on projects for other parties.

- 12.4 Passing on and utilizing CE's services beyond what is stipulated in the contract, in particular the publication of the services of CE, shall only be permissible with CE's prior written consent. The Customer bears the sole responsibility for complying with the legal requirements governing the exploitation of the services of CE (e.g. competition law), particularly with respect to the content of advertising campaigns; the Customer shall indemnify CE against any and all related third-party claims.

## 13. Software

- 13.1 As far as software is included in the scope of supply, the Customer shall be granted a non-exclusive right to use the delivered software including the documentation. It will be handed over for use on the object of supply destined for that purpose. Use of the software on more than one system is prohibited.
- 13.2 The Customer is only allowed to copy, revise, and translate the software or transform it from the object code to the source code within the scope permitted by law. The Customer shall be obliged neither to remove manufacturer's data – in particular copyright notes – nor to modify them without prior explicit permit from CE.
- 13.3 All further rights to the software and documentation including copies shall remain with CE and/or software supplier. Granting sublicenses shall not be permitted.

## 14. Secrecy

The parties commit themselves to keep secret from any third party all verbal and written information and statements that are part of our contract, unless such information has already become public in some other way or unless the other party has waived this secrecy requirement in writing. Persons, institutions and the like shall not be considered unauthorized third parties if, for example, the passing on of information to such a group helps CE to fulfil the objectives of the contract.

## 15. Headhunting

The Customer is obligated to refrain from headhunting employees of CE during the execution of the order and for a period of one year after the order, independent from whether instigation comes from the side of the employee or from the Customer. Headhunting or attempted headhunting represents a major breach of contract. In case of headhunting, the Customer is obligated to pay compensation damages to CE in the amount of a half year's net salary of the newly hired employee. CE is also obligated to refrain from headhunting any employees of the Customer.

## 16. Termination

- 16.1 For good cause CE has the right to terminate the contractual relationship, without notice.
- 16.2 Sufficient grounds for the termination for good cause are, among others:
- Defaults or delays with retainer payments or
  - default on previously agreed payment deadlines by the Customer.
  - Delay in acceptance by the Customer.
- 16.3 After the termination has become effective CE hands over to the Customer the results CE has achieved up to the termination, within a certain period of time to be agreed upon in such a case. The Customer is obligated to compensate CE for our partial services and our expenses that CE has incurred up to the termination. Furthermore, Article 649 of the German Civil Code applies, unless CE is responsible for the termination.
- 16.4 If the Customer terminates the contract, which CE has no responsibility for the termination, the Customer owes the entire contractual fees for the executed service up to the time of termination and furthermore at least an additional payment of 15

% of the agreed contractual fees for the remaining not to be executed services due to the cancellation of the order. In addition CE is free to pursue additional compensation claims as per § 649 sentence 2 BGB.

16.5 In such a case each party shall immediately return to the other party the items and rights that had been provided by that party for the performance of the contract. This also includes the repayment of amounts paid to CE in advance, in so far as they exceed CE's claims for compensation having incurred until then.

16.6 Further claims of the Customer do not exist.

#### **17. Privacy Protection**

CE is entitled to handle data within the purpose of the Federal Privacy Protection Law, which arises out of the business relationship or in connection with work with the Customer, whether this data comes directly from the Customer or a third party. This reference substitutes the notification according to the Federal Privacy Protection Law, which personal data about the Customer via IT is saved and processed.

#### **18. Place of Performance and Prohibition of Assignment**

18.1 The place of performance for all services shall be Bautzen or the location of the executing branch, subject to CE's discretion.

18.2 Under no circumstances may the Customer assign to another party the claims to which the Customer is entitled based on our business relationship.

#### **19. Contract language**

The contract language is English. Insofar as the parties to the contract use another language in addition, the English wording shall prevail.

#### **20. Place of Jurisdiction and Applicable Law**

20.1 The law of the Federal Republic of Germany shall explicitly govern all business and the entire legal relations between the Customer and us.

20.2 A lawsuit regarding all the disputes arising from the contract shall be filed at the competent court at CE's headquarters. CE shall also be entitled to file a lawsuit at the headquarters of the Customer.

#### **21. Final Provision.**

21.1 Any amendment of, and addition to, as well as the rescission of these GTCs must be in writing in order to be valid. The same shall apply to any agreement setting aside the written-form requirement.

21.2 If any of the provisions of this agreement is invalid or becomes invalid at some point in the future that shall in no way have an effect on any of the other provisions. The invalid provision will be replaced by a new and valid provision that reflects the economic intent of the originally invalid provision as closely as possible and that adequately safeguards the interests of both parties.

21.3 All previous General Standard Terms and Conditions for services by CE are replaced by these GSTCs. These GSTCs apply to all CE services that follow the date on which these GSTCs become effective.

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