



## General Terms and Conditions

All deliveries and services (hereinafter: Services) of IHR GmbH (hereinafter: IHR) to enterprises as defined under section 14 of the German Civil Code (hereinafter: the Customer) shall be carried out exclusively in accordance with the subsequent General Terms and Conditions for Services (GTCS), subject to any agreement in writing to the contrary, in particular in the framework of the individual service agreement.

### 1) Individual terms and conditions

General Terms and Conditions or Purchase Conditions of the Customer may only apply to the extent that IHR has expressly agreed to them in writing. The present GTCS shall continue to apply exclusively even if IHR performs Services without reserve being aware of the existence of contradictory General Terms and Conditions or Purchase Conditions.

Any side or supplementary agreements, statements regarding the condition of service items, warranties on condition or duration and other assertions and agreements that may be given or entered into before or after the conclusion of a service contract, must be done in writing in order to be valid.

### 2) Offers and Order

All offers regarding Services of IHR are not binding. Orders are deemed to be accepted only once they have been confirmed in writing by IHR. This may be done within two weeks after receipt of the order.

Subject and scope of the Services will be set forth in an individual service agreement between the parties, which shall in any case prevail over the present General Terms and Conditions for Services.

If, as a matter of exception, the Customer is allowed to use free of charge Services, additional facilities or service configurations exceeding the scope of services described therein, this will not create a claim for the Customer and a possible reduction of such Services or a change of configuration by IHR will not constitute any right for the Customer to reduce the price, claim for reimbursement or to terminate the agreement for cause.

Until performance of the services, IHR is allowed to make modifications to the agreed service items, in particular due to technological progress, to the extent that the performance data and condition statements as described in the service agreement are at least achieved.

Any extension of the contracted Services beyond the scope as described in the offer with respect to quality, content or duration must be ordered in writing.

Additional costs incurred through delays or additional expense, for which IHR cannot be held responsible, will not be borne by the IHR. Should the Customer request additional efforts, or should they be deemed necessary on grounds for which IHR cannot be held liable, then IHR will charge the Customer accordingly. The additional effort will be calculated on the basis of the hourly rates for the staff involved and the time needed.

### 3) Conditions of delivery

Deliveries are done ex works (EXW) pursuant to Incoterms 2000, unless otherwise agreed by the parties.

Partial and/or anticipated performance of services is allowed, to the extent that it is tolerable for the Customer.

Service items that have been delivered for testing and demonstration purposes remain the property of IHR. The Customer is obliged to care for a proper storage excluding the access by third parties and may use the service items beyond the testing and demonstration purposes only upon a specific agreement with IHR.



#### 4) Scheduled dates to perform and performance default

Deadlines and scheduled dates to perform are non-binding objectives and estimations, except if they have been expressly convened in writing as a fixed due date for performance. The above does not apply for deadlines set by the Customer further to claims based upon a breach of contract by IHR. In case of a fixed due date to perform, IHR shall only default when the service is due and the Customer had fixed a supplementary delay without success and when IHR is to be held liable for the performance default.

The observance of fixed due dates by IHR requires that the Customer carries out in time all his obligations to co-operate and respects the agreed payment conditions and all his other obligations. If the Customer does not fulfil these requirements (whether at fault or not) in time, the fixed due dates to perform shall be postponed accordingly. IHR reserves furthermore the right to raise further objections provided by the law.

In case that the non-observance of deadlines or due dates to perform is caused by force majeure, e.g., general mobilization, war, riots or similar events, strike, lockout, the deadlines or fixed due dates to perform shall be postponed accordingly for the duration of the above mentioned obstacles for performance.

Should IHR be in default to perform, the indemnity and compensation for such default is limited to the amount of the foreseeable damage and may not exceed in any case 5% of the performance value concerned by the default to perform.

The Customer may only withdraw from the agreement as foreseen under the provisions of law, if IHR can be held liable for the delay of performance. The Customer is obliged to declare upon IHR's request within a reasonable delay whether he intends to withdraw from the agreement because of the delay or whether he insists upon performance. The aforementioned limitations of liability do not apply to intentional acts or acts of gross negligence by IHR.

For all services, correct and punctual deliveries by IHR's own suppliers shall be reserved, subject to a specific agreement to the contrary in writing between IHR and the Customer. Subject to the aforementioned exception, IHR is not liable for delays resulting from an incorrect or delayed delivery by their own suppliers. In these cases, IHR is furthermore entitled to withdraw from the individual service agreement.

#### 5) Customer's obligation to co-operate

In order to enable IHR to duly perform the offered services, all necessary prerequisites of technical and non-technical nature as set forth in the offer and in the present General Terms and Conditions of Services must be fulfilled. The Customer is particularly bound by the following responsibilities:

- The Customer must agree to make available and if necessary update all data required by IHR in pursuance of its activities. The Customer must support the project by participating in any scheduled work meeting and by appointing a responsible contact person.
- The designated contact person dealing with IHR must be empowered to meet any necessary decision.
- If applicable: For any fieldwork (e.g. installation of equipment, repair of equipment or manual measurements) a mutual agreement with respect to time and scope of such work between the Customer and IHR is absolutely necessary.

#### 6) Conditions for accuracy and usability of measurement results

The evaluations offered by IHR require a good quality of all project relevant information material delivered by the client e.g. technical data sheets and schematics, LDF and NCF files.



If due to a low quality of data or project material a higher expense for evaluation will be necessary, the arising extra costs will be charged after informing the Customer.

If the Customer does not agree to bear the additional expense, the assessment will be done on basis of the offered services using the delivered data, accepting possible restrictions in accuracy and usability of the results.

#### 7) Customer's further general obligations

Unless agreed otherwise in writing by IHR and the Customer, the Customer is further bound in particular by the following obligations:

- The Customer must pay the agreed prices in time.
- The Customer must inform IHR without delay in writing about any perturbations, transmission errors and obstacles. The Customer has to take any reasonable measures suitable to minimize damages.
- The Customer allows IHR or any third person mandated by IHR to access his technical facilities, to the extent that this is necessary for the repair or examination of perturbations or appears to be so in IHR's point of view. The Customer has to provide and maintain at his own costs the technical installations that are necessary for the reception or use of the services due by IHR and also provide at his own costs the electric power to run this technical facility.
- Any user and access authorizations given to the Customer (passwords) as well as data transfer and communication addresses must be protected from any illegal access by third parties. The storage and administration of user and access authorizations as well as data transfer and communication addresses is done by the Customer alone, to the extent that the individual service agreement does not provide for something else.
- The Customer has to recompense those expenses occurring to IHR in relation with (i) control, examination and error repair measures caused by the Customer (e.g., further to an error or malfunction notification of the Customer), except if the error or malfunction is due to IHR's service performance or is in relation with a technical installation of IHR used for the service performance, or (ii) it results from the breach of one of the aforementioned Customer obligations, except if the Customer cannot be held liable for it. Any working time spent will be remunerated pursuant to IHR's then applicable hourly rates.

#### 8) Prices and payment conditions

The prices convened are to be understood ex works plus the then applicable statutory value added tax and, if applicable, transportation cost and packaging. Prices are agreed in Euros.

In the framework of a durable contractual relationship with a Customer, IHR may request an increase of the agreed prices in accordance with the development of IHR's procurement costs. A price increase shall only be valid if the price increase request has been notified to the Customer in writing and indicating the development of the procurement costs and if the Customer does not object in writing within two weeks after receipt of the price increase request. If the Customer effectively objects to the price increase, IHR may terminate the service agreement concerned within another two weeks after receipt of the objection notice. IHR shall inform the Customer in the price increase request about the right to object as well as the consequences of objection.

Unless agreed otherwise by the parties in the individual service agreement, the price is to be fully paid without any deductions within 15 days of the date of the invoice. Invoicing will be done at the same time as the



performance of the Services or at the date of the first rendering of Services, if those Services are rendered over a longer period of time.

To the extent that the Customer orders several Services with IHR, IHR is authorized to prepare a global invoice for the Customer, unless if IHR has received from the Customer at least one week before invoicing different invoice addresses and a request to prepare different invoices.

Objections against the amount of consummation based invoices have to be raised in writing immediately after receipt of the corresponding invoice. IHR's invoice shall be deemed accepted six weeks after the date of invoicing, if the Customer has not raised objections until that date and IHR has referred to this exclusion of objection in the invoice.

Subject to the following paragraph, payments must be made without deductions by bank transfer to the account mentioned by IHR. IHR will only accept cheques and exchange letters after prior agreement and only as a substitute for execution. Any discounting or banking fees shall be borne by the Customer.

The Customer may only compensate with uncontested claims or claims that have been definitely ruled out by court decision and may only claim legal retention rights on the basis of such claims. A retention right can only be exercised by the Customer on the basis of counterclaims resulting from the same individual service agreement.

A payment on due date is done upon receipt of the payment by IHR and in case of a bank transfer, a letter of exchange and cheques, it is the credit on IHR's account that is decisive. As long as the Customer is in default with any payments, IHR reserves the right to refuse other performances under the commercial relationship, even if they are not connected to the unpaid Service. The possibility of IHR to raise further claims remains unaffected thereby.

IHR invoices payment default interest rates at a rate of 10% above the then applicable basic interest rate of the European Central Bank and at least of 12% per year, unless and to the extent that the Customer provides evidence that IHR has suffered a lower prejudice. IHR remains entitled to claim a higher interest prejudice

#### 9) Property reserve

IHR reserves the property on any service items until complete payment of all claims resulting from the commercial relationship (principal and accessory claims) (reserved merchandise). In case of payment by letter of exchange or cheques, the reserve of property is valid until their credit.

To the extent that they are still under the property reserve, the Customer may only dispose of the service items in the framework of a proper course of business.

The Customer shall immediately inform IHR of any seizure of the reserved merchandise by third parties, and in particular of an enforcement measure and to proceed at the same time on behalf of IHR against such measures of enforcement – if necessary before the courts – and to raise objection with the enforcement creditor.

The processing, transformation, connection or installation of reserved merchandise is always done by the Customer on behalf of IHR. If the reserved merchandise is processed with other items which do not belong to IHR or mixed with such items in an inextricable way, IHR acquires a portion of the property of the new item in proportion of the value of the reserved merchandise to the values of the other items processed or mixed with at the moment of such processing or mixture. IHR's rights on the reserved merchandise continue with the new item; the Customer keeps the sole or collective property of IHR on this item in custody.

#### 10) General liability of IHR and forfeiture

When performing engineering tasks, IHR guarantees:



- Thorough and suitable solutions to the task following the prevailing technology and with due regard to the appropriate regulations and guidelines.
- To comply with agreed upon deadlines, so long as delays are not caused by any circumstances beyond the control of IHR,
- To be neutral and unbiased in its pursuit of the project and to use all the experience at its disposal.

In case of defects under a contract for work and services, the liability of IHR is limited to measures of fulfilment/repair. In case of failure of such fulfilment/repair measures, the Customer shall have the right to lower the price or to withdraw from the contract, without prejudice to his right to realize the work himself (Section 637 of the German Civil Code). Any rights of the Customer due to defects under a contract for work and services shall forfeit one year after reception of the work of IHR GmbH by the Customer, unless IHR GmbH has fraudulently concealed or intentionally caused the defect.

Except in cases of a violation of essential obligations under the contract, the liability of IHR for a violation of any obligations under the contractual relationship with the client having been caused by neglect, shall be limited to the amount of the respective service item. This limitation of liability is also valid for compensation claims of the Customer in case of tort by neglect on behalf of IHR. For any violations of essential obligations under the contract that have been caused by neglect, the liability of IHR shall be limited to the amount of the respective service item.

The general provisions, rules of forfeiture and limitations of liability of German law shall apply in case of any personal damages.

IHR shall also be liable according to the general provisions of German law if IHR has acted with intent or gross negligence.

A personal liability of the employees or those persons used by IHR for the fulfillment of the contract is excluded, unless such persons act intentionally or with gross negligence.

Except for defects under the German Product Liability Act or under the rules of tort, any compensation claims for defects other than those under the rules applying to contracts for work and services shall forfeit one year after reception of the respective works of IHR by the Customer, unless IHR has caused them intentionally or fraudulently.

The Customer shall be liable for any damage to equipment of IHR resulting from incorrect operation by non-authorized staff of the Customer, by improper storage or transport by the Customer, by third parties or by uninsured natural hazards.

### 11) Confidentiality

IHR guarantees to treat in confidence any information, data or documents received from the Customer, as well as any findings resulting from the execution of its Services.

### 12) Other Conditions

The present General Terms and Conditions for Services as well as the individual service agreements with the Customer and their formation are governed by the laws of the Federal Republic of Germany. The UN convention on the International Sales of Goods (CISG) shall not apply.

Should any provision of these General Terms and Conditions for Services or of an individual service agreement be or become void, the validity of the remaining provisions and in particular of the service agreement shall not



be affected thereby, except if its preservation would constitute an intolerable difficulty for one of the parties. The parties shall replace the void provision by a provision that validly comes closest to the intention of the parties at the moment of the conclusion of the agreement.

Modifications and supplements to a service agreement must be made in writing. The same applies to a modification of the present paragraph. The courts at the registered office of IHR shall be competent if the Customer is a merchant or a legal person under public law. The choice of this jurisdiction is exclusive only for the Customer.