

# General Terms and Conditions

The following General Terms and Conditions apply to:

**DTS Systeme GmbH**  
Schrewestraße 2  
32051 Herford, Germany

**DTS Systeme Münster GmbH**  
Soester Straße 13  
48155 Münster, Germany

**DTS Systeme Wien GmbH**  
Heiligenstädter Lände 29  
1190 Wien, Austria

**DTS CLOUD SECURITY MonEPE**  
Omirou 8 - 5th floor  
Athen 105 64, Greece

and their companies

## A. General information

### I. Inclusion

1. These Terms and Conditions of Sale, Delivery, Manufacturing, Service and Purchase apply to all transactions between DTS Systeme GmbH, hereinafter referred to as DTS, and its customers, insofar as they are not consumers within the meaning of the German Civil Code, or suppliers.
2. These General Terms and Conditions shall apply to all contracts, including future contracts, as referred to in section A.I.5. This shall also apply if the customer has notified us of any deviating General Terms and Conditions of Business. The customer's terms and conditions shall not be accepted even if DTS does not expressly object to them again after receipt by DTS. Unconditional fulfilment of the contract does not constitute agreement with the customer's terms and conditions.
3. All regulations require the written form, with any agreement according to which the written form is to be cancelled also requiring the written form insofar as nothing different is stipulated in these Terms and Conditions.
4. The respectively valid Terms and Conditions of DTS shall apply, unless the customer objects in writing within one month of becoming aware of the changes.
5. For each type of contract, Clause A. of these Terms and Conditions shall apply, for contracts which have as their object the sale or delivery of goods, additionally Clause B. shall apply for contracts which have as their object the production of a work, additionally Clause C, for contracts which have as their object the provision of services, additionally Clause D. and for contracts which have as their object the purchase of or the supply with goods, Clause E. shall additionally apply.

## II. Offers and service descriptions

1. The offers of DTS are subject to change and non-binding. Verbal agreements and assurances made by our employees shall only become binding upon our written confirmation or conclusion of a contract.
2. The information, drawings, illustrations and technical data as well as the performance descriptions in the brochures, catalogues and advertisements are always non-binding and do not lead to an agreement on quality unless they are expressly described as binding in the order confirmation or a contract.
3. DTS has ownership and copyright to cost estimates, drawings and other documents. They must not be made accessible to third parties and must be returned upon request. Third parties also include companies affiliated with the customer in terms of personnel or corporate law.

## III. Conclusion and content of the contract

1. The written order confirmation from DTS shall be authoritative for the conclusion and content of the contract. If this deviates from the customer's order, it shall nevertheless be decisive if the customer does not immediately object to this or if he accepts the delivery or service from DTS without reservation or performs it himself without reservation.
2. All public charges (taxes, fees, customs duties, etc.) arising from or in connection with the conclusion or performance of the contract outside the Federal Republic of Germany shall be borne by the customer.

## IV. Payment and settlement

1. All payment periods begin with the invoice date, unless otherwise agreed in an individual contract. Payments for the purpose of fulfilling DTS's claims against the customer must be made in cash in accordance with the terms of payment granted by us. Unless otherwise specified or stated on the invoice form, payment shall be made within 8 days of the invoice date without deduction. In the case of transfers to one of the bank accounts specified by DTS and payment by cheque, only the unconditional crediting to an account of DTS shall be deemed payment.
2. Should DTS accept bills of exchange, payment shall only be deemed to have been made when the bill of exchange has been honoured. Discount and bank charges as well as the taxes incurred on them are to be paid by the customer.
3. DTS does not guarantee that bills of exchange or cheques will be presented, protested or collected in a timely and proper manner.
4. If the customer is in arrears with a payment in whole or in part, DTS shall be entitled in commercial transactions to charge interest from the relevant point in time to the amount of the applicable debit interest of the commercial banks, but at least 8 percentage points above the respective base interest rate p.a.. In addition, a flatrate administrative fee of 5 % p.a. shall be due.
5. If the customer is in arrears with a payment for more than 2 weeks, or if he does not honour a cheque or a bill of exchange on maturity, or if

doubts arise about his solvency for other reasons, all existing payment obligations towards DTS on the part of the customer shall become due immediately, irrespective of the term of any incoming bills of exchange. Furthermore, DTS is entitled to demand the provision of securities on account of all other claims, to execute outstanding deliveries only against advance payment or securities, to prohibit the processing, treatment and/or resale of the goods in our ownership or co-ownership and to demand their surrender.

6. Offsetting by the customer is excluded, unless the counterclaim has been legally established or acknowledged by DTS.

7. Payments (including instalments and payments on account) shall always be used to settle the oldest debt item and the interest accrued thereon as well as the flatrate administrative costs.

8. DTS shall be entitled, without the consent of the customer, to transfer due or future monetary claims arising from the contractual relationship in whole or in part to third parties. Any assignment prohibition or consent requirement in the terms and conditions of business of the customer is expressly contradicted.

#### **V. Reservation of title and repossession**

1. The object of the purchase or work contract remains the property of DTS until all claims arising in connection with the supply contract have been satisfied in full. Until the complete fulfilment of all claims arising in connection with the supply contract, the remaining provisions shall apply:

- a) Any treatment and processing of the object subject to retention of title as well as its connection with other objects by the customer or third parties shall be carried out on behalf of DTS. DTS shall be entitled to co-ownership of newly created objects in accordance with the value of the object of purchase or work contract performance. If the object of the purchase or service contract is the main object of the newly created object, it is agreed that the customer transfers the co-ownership share to DTS by way of security.
- b) The customer is entitled to resell the object of purchase or work contract services in the ordinary course of business.
- c) The customer hereby assigns to DTS all claims arising from the resale of the object of purchase or work contract services in order to secure his claims, irrespective of whether the object has been resold without or after processing. If a current account relationship exists between the customer and his consumer in accordance with § 355 HGB (German Commercial Code), the claim assigned by the customer in advance shall also refer to the recognised balance and, in the event of insolvency of the customer, to the then existing causal balance.
- d) DTS undertakes to release the securities to which it is entitled at the request of the customer to the extent that the estimated value of the securities at the time of the request for release shall exceed the value of the claims to be secured, including the costs, by more than 50% and not only temporarily. DTS shall be responsible for selecting the claims to be released.
- e) The customer is authorised to collect his claims. DTS reserves the right to disclose the assignment and collection.
- f) The customer is obliged to treat the object of the purchase or work contract with care; in particular, he is obliged to insure it at his own expense against fire, water and theft at the delivery value.
- g) In the event of breach of contract by the customer, in particular, in the case of a default in payment, DTS shall be entitled to take back the goods and the customer shall be obliged to surrender them. Due to the retention of title, DTS may, however, only demand the return of the object of services under a purchase or work contract if DTS has withdrawn from the contract. In the event that the object of the purchase or service contract is taken back, DTS shall be entitled, without proof of damage, to charge the customer for the first half year of use of the object of the purchase or service contract a reduction in value of 25%, and, for each further half year, a reduction in value of 15%. The customer's right to prove a lesser reduction in value remains unaffected by this.

- h) The customer may not pledge the object of purchase or work contractual performances and may not assign it to third parties as a security.

2. In the event of seizures or other impairments of the owner's interests, the customer must notify DTS immediately.

#### **VI. Default in performance, obligations of DTS in the event of defects under a purchase contract or a contract for work and services**

1. Insofar as the obligation to perform is or can be excluded for the reasons stated in the law (§ 275 BGB), the customer may claim damages and/or withdraw from the contract, unless DTS is not responsible for the reason which led to the exclusion of the obligation to perform. However, the customer's claim for damages shall be limited to 10% of the value of that part of the delivery which cannot be used on time or in accordance with the contract due to the exclusion of the obligation to perform. Further claims for damages due to the exclusion of the obligation to perform shall be governed exclusively by Section VI of these Terms and Conditions. In the case of a partial performance, the customer can only withdraw from the contract if the partial performance is demonstrably of no interest to him; if the customer is not then entitled to withdraw, he can demand an appropriate reduction of the consideration or refuse payment for the part of the performance for which the obligation to perform is excluded. Withdrawal shall also be excluded if the customer is solely or predominantly responsible for the circumstance leading to the exclusion of the obligation to perform or if the customer is in default of acceptance and DTS is not responsible for the circumstance leading to the exclusion of the obligation to perform. In these cases, the customer remains obliged to pay the consideration.

2. If strike and lockout, cases of force majeure, or the occurrence of other unforeseen events outside the control of DTS substantially change the economic significance or the content of the delivery or have a considerable effect on the operation of DTS and these events are not only of a temporary nature, the contract shall be adapted appropriately in good faith. Insofar as this is not economically justifiable, DTS may withdraw from the contract or, in the case of a permanent delivery relationship, terminate the contract for good cause.

3. DTS is not responsible for any claims based on material defects in the event of only minor impairment of usability, natural wear and tear, or damage arising after the transfer of risk as a result of incorrect or negligent handling, excessive strain, unsuitable operating materials, defective construction or assembly work by the customer or further processors in the supply chain or end user, chemical, electrochemical or electrical influences, or as a result of particular external influences. If the customer or a third party carries out improper further processing, modifications or repair work, there shall be no claims for defects or other claims for these and the resulting consequences. This also applies if the customer or a third party has mounted or installed third-party parts.

4. Claims for defects shall also not exist if the customer has failed to carefully inspect the delivery item immediately after delivery by DTS, insofar as this is feasible in the ordinary course of business, and to notify DTS in writing without delay of any defects discovered. If defects cannot be discovered despite the inspection (concealed defects), these must be reported in writing immediately after their discovery. If timely written notification is omitted, any claims due to such defects are excluded.

5. Furthermore, a warranty for defects shall not be granted if the customer does not follow the regulations of DTS or the operating instructions of the manufacturer of the delivery item regarding the handling of the delivery item. Natural wear and tear and damage resulting from negligent or improper handling, and in particular from excessive strain on the delivery item, are excluded from the warranty.

6. In the event of material defects, DTS shall, at its discretion, either repair the defective parts free of charge or replace them (subsequent performance). DTS may refuse subsequent performance if this involves disproportionate expense and/or costs. If the customer has set DTS a reasonable deadline for subsequent performance, which has elapsed fruitlessly, the customer may withdraw from the contract or, in

the case of contracts with an ongoing reference, terminate the contract or reduce the remuneration.

7. Only in urgent cases where operational or other safety is endangered shall the customer be entitled to remedy the defect himself or have it remedied by third parties or to demand reasonable reimbursement of his costs from DTS. Otherwise, the customer shall only be entitled to carry out the work himself if DTS is in default with remedying the defect or 2 attempts at rectification have failed.

If the customer carries out the remedy of defects itself, DTS shall reimburse at most the costs that DTS would have incurred if it had carried out the remedy of defects itself.

8. DTS has no obligation to inspect and is not liable for defects in parts provided to it by the customer or by an intermediate supplier selected by the customer.

9. DTS may limit its liability for other third-party products used by DTS in the manufacture of the object of purchase or work contract services without substantial processing to the assignment of the warranty claims to which it is entitled against the subcontractor. If DTS makes use of this right, it shall be vicariously liable for the claims which the customer could not assert against the subcontractor in the legal proceedings to be conducted in advance. DTS will support the customer in any such court case and, if necessary, join as a secondary intervenor.

10. Further claims for damages and reimbursement of expenses by the customer against DTS, its executive bodies, its legal representatives and/or its vicarious agents are excluded. This shall not apply if DTS, its organs, its legal representatives and/or its vicarious agents are guilty of intent or gross negligence, in the case of culpable injury to life, limb or health and/or in the case of breach of essential contractual obligations. In the event of a breach of essential contractual obligations, however, the scope of liability shall be limited to compensation for typical foreseeable damage if DTS, its executive bodies, legal representatives and/or vicarious agents are only guilty of simple negligence, whereby in the case of simple vicarious agents this limitation of the scope of liability shall apply to all negligence.

11. If a notice of defect proves to be unjustified, the customer shall reimburse DTS for the expenses incurred in examining the notice of defect at agreed prices for services, and otherwise at an hourly rate of €95.00 net per employee employed.

12. Subject to any other agreement with the customer or mandatory statutory provisions, the warranty period shall be 12 months from the passing of risk.

## **VII. Liability and indemnity**

1. Unless otherwise stated in these General Terms of Delivery or in applicable mandatory legal provisions, claims for damages and reimbursement of expenses by the customer against DTS, its executive bodies, its legal representatives and/or its vicarious agents shall be excluded regardless of the legal basis, in particular due to breaches of contract and/or tort. This shall not apply if DTS, its executive bodies, its legal representatives and/or its vicarious agents are guilty of intent or gross negligence and/or if essential contractual obligations are breached. In the event of a breach of material contractual obligations, however, the scope of liability shall be limited to compensation for typical foreseeable damage if DTS, its executive bodies, its legal representatives and/or its vicarious agents are only guilty of simple negligence, whereby in the case of simple vicarious agents this limitation of the scope of liability shall apply to all negligence. Furthermore, liability shall not be limited if DTS is compulsorily liable according to the law, e.g. according to the Product Liability Act, and/or in case of injury to life, body or health.

2. Otherwise, however, DTS shall be liable to the customer to the extent that DTS's existing business liability insurance provides compensation. The business liability insurance is based on the „General Insurance Conditions for Liability Insurance (AHB)“.

3. All claims for damages shall be subject to the statutory statute of limitations.

4. DTS warrants that, to the best of its knowledge, the software it supplies and processes is free from third-party industrial property

rights which exclude or restrict its contractual use by the customer.

If, after conclusion of the contract, infringements of industrial property rights are asserted and if the use of the programs in accordance with the contract is impaired or prohibited, DTS shall be obliged, at its option, either to modify or replace the software in such a way that it no longer falls under the infringed industrial property right, but nevertheless complies with the contractual provisions, or to obtain the right that the software can be used in accordance with the contract without restriction and without additional costs.

DTS shall indemnify the customer against all costs which are justifiably asserted against the customer within the scope of claims against third parties due to infringement of industrial property rights. The obligation to indemnify is limited in amount to the amount of the purchase price of the delivered or processed software, insofar as no intentional conduct attributable to us exists.

Additional prerequisites for the indemnification are that DTS or its supplier is given the right to conduct the legal dispute and that the alleged infringement of rights is exclusively attributable to our object of purchase or work contract services without connection or use with other products.

Further claims for damages by the customer shall only exist if we had positive knowledge of the infringed industrial property rights.

5. Should circumstances arise which could lead to a recall or comparable action of the products delivered by DTS to the customer, the party which first acquires indications or knowledge of such circumstances shall immediately inform the other party. Actions of product withdrawal from the market or product modification in the market shall be coordinated with the respective other party if they might affect their interests. The parties will cooperate to the best of their ability in such cases. DTS is only liable for such actions if they are mandatory by law.

6. Unless otherwise stated in these General Terms of Delivery or other agreements with the customer, DTS shall not be liable for changes made by the customer to the scope of delivery of DTS without the prior written consent of DTS for the delivery of standard components according to specifications or samples. DTS shall also not be liable for causes of damage caused by the installation carried out by the customer or the embedding of DTS scope of delivery in a certain environment, unless DTS has previously agreed in writing to the procedure of the customer in the knowledge of all circumstances.

7. To the extent that third parties assert claims against DTS, but the abovementioned prior written consent required by DTS is not available and a cause of damage cannot be determined within the area of responsibility of DTS, the customer shall indemnify DTS against these claims by third parties.

8. The customer has to pay all fees, costs and expenses incurred in connection with any legally successful legal action against him outside Germany

## **VIII. Supplementary provisions for warranty in the case of the delivery of software, condition of the programs**

1. If the customer modifies software or has it modified by third parties, claims based on material defects or defects of title shall lapse unless the customer proves that the errors that occurred are not attributable to this fact. If the change makes error analysis and/or elimination of the defect more difficult, the additional costs incurred by DTS as a result shall be reimbursed by the customer in accordance with the provision in Section VI.12..

2. In general, software is of a quality that does not guarantee that it will always work without interruption or error. In this respect, the software supplied by DTS is of a condition which corresponds to the usual average type and quality. This condition shall be deemed to have been agreed unless otherwise agreed in writing.

3. The performance description of the programs and our offers do not include any statements about the profitability and/or usability of the software for the purposes of the customer. Advice on the profitability and/or usability of the software for the customer's purposes is not the subject of services under a purchase contract or a contract for work and services unless expressly agreed in writing under a service contract.

4. If third-party products used by DTS in the manufacture of the object of purchase or work contract services without essential processing are defective, DTS may limit its liability to the assignment of the warranty claims to which it is entitled against the supplier. If DTS makes use of this right, it shall be vicariously liable for the claims which the customer could not assert against the supplier in the legal proceedings to be conducted in advance. DTS will support the customer in any such court case and, if necessary, join as a secondary intervener.

#### **IX. Warranty**

1. The assumption of warranties and property descriptions or the procurement risk by DTS must be expressly made, designated as such, and be made in writing.
2. All other information which DTS passes on to the customer shall at no time constitute a warranty or assumption of the procurement risk.

#### **X. Withdrawal by DTS**

1. DTS may withdraw from the contract in whole or in part if
  - a) insolvency proceedings have been instituted against the assets of the customer or the instituting of such proceedings has been refused, DTS has received written credit information indicating the customer's unworthiness to pay or the customer has ceased or threatens to cease business operations for other reasons;
  - b) Delivery or manufacture is dependent on self-delivery, which fails to take place for reasons for which DTS is not responsible; DTS is obliged to inform the contractual partner immediately of the non-availability and to reimburse any consideration already received without delay;
  - c) the customer is in default of payment and does not pay in full within 10 days even after a reminder,
  - d) if essential circumstances which were the basis for the conclusion of the contract have changed so seriously that DTS cannot reasonably be expected to adhere to the contract.
2. The statutory rights of withdrawal shall remain unaffected in this respect.

#### **XI. Place of performance, place of jurisdiction and applicable law**

1. Unless otherwise agreed, the place of performance for DTS Herford's services and deliveries under a sales contract and the place of performance for DTS's services shall be Herford.
2. All legal relations between the customer and DTS shall be governed by local law to the exclusion of the provisions of the United Nations Convention on Contracts for the International Sale of Goods.
3. The place of jurisdiction shall be the court responsible for the registered office of DTS, i.e. the Local Court of Herford or the Regional Court of Bielefeld - Chamber for Commercial Matters - unless otherwise prescribed by mandatory court law. In any case, DTS may also sue the customer at his place of jurisdiction.

#### **XII. Copyrights and rights of use, intellectual property rights**

1. All industrial property rights, other existing intellectual property rights and existing copyrights already applied for by DTS or granted to DTS at the time of conclusion of the contract, notwithstanding the sale and delivery to the customer, shall remain the exclusive property of DTS.
2. DTS is entitled to work results (e.g. documents, process descriptions, scripts and software programs) produced by DTS within the framework of the execution of contracts. This shall also apply if the customer participated in the creation of the work result by creating the requirement specification.
3. Unless expressly agreed otherwise in writing, DTS shall grant the customer the non-exclusive, permanent, irrevocable and non-transferable right, with effect from full payment of the remuneration, to use the guidelines and work results provided within the framework of the contract to the extent and in the manner resulting from the purpose of the service and the area of application of the work result. DTS is also entitled without restriction to the rights of use pursuant to §§ 69 d, 69 e UrhG (German Copyright Law).
4. The customer is not entitled to enable a third party to use the work

results.

#### **B. Conditions of sale and delivery**

##### **I. Transfer of risk and delivery**

1. Insofar as DTS does not expressly assume the dispatch of the goods and the associated risks (material and price risk) by means of corresponding delivery clauses, the risk shall pass to the customer at the time of notification that the goods are ready for dispatch. This shall also apply if partial deliveries are made or DTS has taken over other services (e.g. assembly).

Acceptance or receipt of goods may not be refused due to insignificant defects. If dispatch or acceptance is delayed through no fault of DTS, the risk shall pass to the customer upon readiness for acceptance.

2. Unless otherwise agreed, the customer shall bear the costs for packaging, loading, freight and installation.

##### **II. Prices**

1. DTS prices are quoted ex Herford, net cash, plus value added tax or other local taxes, unless otherwise agreed.
2. The shipping packaging is also not part of the prices communicated by DTS. Packaging of any kind will not be taken back.
3. The prices and conditions of the documents valid at the time of conclusion of the contract shall apply, unless otherwise agreed. If levies or other external costs which are included in the agreed price change later than six weeks after conclusion of the contract, or if they arise anew, DTS shall be entitled to change the price to the corresponding extent.
4. The prices are calculated on the cost basis of the offer. In the event of changes in material prices, wages, currency fluctuations, statutory turnover tax or other cost factors such as costs for energy supply, disposal costs or public charges, DTS reserves the right to adjust prices after the timely notification of the customer.

##### **III. Deadlines and dates**

1. DTS's obligation to deliver on time is subject to the timely and correct supply of DTS itself, unless the incorrect or delayed supply or non-supply is the fault of DTS.
2. Binding dates for delivery (delivery dates) must be expressly agreed as such. An agreed period for delivery (delivery period) shall not commence until our written order confirmation has been received by the customer, but not before the information, technical data and documents to be procured by the customer have been provided. Fixed dates shall only be agreed as fixed dates within the meaning of the German Commercial Code if they are expressly designated as such.
3. Changes or extensions to the original scope of the order agreed after conclusion of the contract shall reasonably extend or postpone the original delivery periods or dates.
4. The date of dispatch ex works shall be decisive for compliance with delivery dates. They shall be deemed to have been complied with upon notification of readiness for dispatch.
5. The delivery date shall be postponed appropriately in the event of strike and lockout, failure to deliver or late delivery to DTS, cases of force majeure and the occurrence of unforeseen events beyond the control of DTS. DTS will notify the customer of the occurrence and expected duration of such events. The delivery date shall also be postponed if the customer is in arrears with his payment and other obligations, by the duration of the arrears, or if technical and/or commercial questions have not been clarified, by the time necessary to clarify such questions. As long as DTS is not responsible for the events mentioned in this paragraph, the customer may not withdraw or terminate the contract.
6. If DTS is in default of delivery and the customer suffers damage as a result of the delay, he shall be entitled to compensation for the delay for each completed week of the delay up to a maximum of ½%, but in total up to a maximum of 5% of the purchase price of the partial delivery, which cannot be used on time or in accordance with the contract due to the delay.

The customer reserves the right to prove higher damages caused by delay. The right to withdraw from or terminate the contract under the statutory conditions due to a delay in delivery for which DTS is responsible after the fruitless expiry of a reasonable period set by the customer for performance remains unaffected by this.

7. Section VII.1 of these Terms and Conditions shall apply to further claims for damages and reimbursement of expenses by the customer against DTS, its executive bodies, its legal representatives and/or its vicarious agents.

8. If DTS is in default of delivery, the customer shall, at DTS's request, declare within a reasonable period of time when the delivery is to take place.

9. If transport is delayed after readiness for dispatch has occurred for reasons for which DTS is not responsible, the customer shall be charged the costs incurred for storage, starting with notification of readiness for dispatch, or at least ½% of the net invoice amount for each month in the case of storage at DTS's works. The customer reserves the right to prove lower storage costs. Further claims of DTS remain unaffected by this.

10. If the customer is domiciled in Germany, the following shall apply: The customer and DTS shall enter into the following agreement in accordance with § 94 of the Insolvency Statute for offsetting in the event of insolvency: In the event of the customer's insolvency, DTS's claims against the customer shall become due upon the opening of insolvency proceedings, even if they would otherwise not have been due at this point in time. In the event of a court order in provisional insolvency proceedings, the due date shall be the court order. This also applies vice versa to claims of the customer in the event of the insolvency of DTS.

#### **IV: Intermediate suppliers**

1. Should the customer wish one or more intermediate suppliers to be connected between the customer and DTS, this shall require the prior consent of DTS. However, DTS shall not refuse consent if the customer is liable for outstanding claims and compliance with the conditions applicable between the customer and DTS as for its own liabilities in addition to the intermediate suppliers named by the customer.

2. The customer shall enter into this liability obligation as soon as he has named one or more intermediate suppliers and confirmed this to DTS.

#### **V. Shipment and transfer of risk**

1. Unless otherwise agreed, the goods shall be made available for dispatch unpacked and not protected against water. According to its experience, DTS shall provide packaging, protection and/or transport aids at the customer's expense.

2. Goods reported ready for dispatch in accordance with the contract must be retrieved immediately, otherwise DTS is entitled, after a reminder, to dispatch them at the expense and risk of the customer at our discretion or to store them at our own discretion and invoice them immediately.

3. Unless otherwise agreed, the shipping route and means shall be determined by DTS at the expense and risk of the customer as well as the forwarding agent and carrier. The risk, including the risk of confiscation of the goods, shall pass to the customer in all transactions, including carriage paid or free delivery, when the goods are handed over to a freight forwarder or carrier, at the latest, however, when they leave the supplier's plant. DTS shall provide insurance only on the instruction and at the expense of the customer. The obligation to unload and the costs of unloading shall be borne by the customer.

4. If, through no fault of DTS, transport on the intended route or to the intended location becomes impossible within the intended time, DTS shall be entitled to deliver by another route or to another location; the customer shall bear the additional costs incurred. The customer will be given the opportunity to respond beforehand.

5. DTS is entitled to make partial deliveries to a reasonable extent. Excess or short deliveries of the agreed quantity customary in the industry are permissible.

6. In the case of contracts with continuous delivery, DTS is to be issu-

ed retrievals and classifications for approximately equal partial quantities; otherwise DTS shall be entitled to make the determination at its reasonable discretion. If the contractual quantity is exceeded by the individual retrievals, DTS shall be entitled, but not obliged, to deliver the surplus. DTS may charge the customer the surplus at the prices valid at the time of the retrieval or delivery.

### **C. Conditions of manufacture**

#### **I. Acceptance**

Even if acceptance is stipulated in an individual contract, the work shall be deemed to have been accepted 12 working days after written notification of completion of the service, unless the customer responds to the notification with a request for acceptance. The final invoice shall also be regarded as written notification in the aforementioned sense.

#### **II. Prices**

1. The prices stipulated by DTS are fixed prices, unless expressly agreed otherwise in an individual contract.

2. The prices and conditions of the documents valid at the time of conclusion of the contract shall apply, unless otherwise agreed.

If levies or other external costs which are demonstrably calculated in the agreed price change later than six weeks after conclusion of the contract, or if they are new, DTS shall be entitled to change the price to the corresponding extent.

3. The prices are calculated on the cost basis of the offer. In the event of changes in material prices, wages, currency fluctuations, statutory turnover tax or other cost factors such as costs for energy supply, disposal costs or public charges, DTS reserves the right to adjust prices after the timely notification of the customer.

#### **III. Deadlines and dates**

1. The obligation of DTS to manufacture on schedule is subject to the reservation of timely and correct delivery to itself, unless the incorrect or delayed delivery or non-delivery is the fault of DTS, and subject to the reservation of timely and defectfree advance performance by other suppliers and craftsmen.

2. Binding dates for completion (completion dates) must be expressly agreed as such. An agreed period for completion shall commence only upon receipt by the customer of DTS's written order confirmation, but not prior to the provision of the information, technical data and documents to be procured by the customer. Fixed dates shall only be agreed as fixed dates within the meaning of the German Commercial Code if they are expressly designated as such.

3. Changes or extensions to the original scope of the order agreed after conclusion of the contract shall reasonably extend or postpone the original delivery periods or dates.

4. The date of dispatch ex works shall be decisive for compliance with completion dates. They shall be deemed to have been complied with upon notification of readiness for dispatch.

5. The completion date shall be postponed appropriately in the event of strike and lockout, failure to deliver, or late delivery to DTS, force majeure, and unforeseen events beyond the control of DTS. DTS will notify the customer of the occurrence and expected duration of such events.

The completion date shall also be postponed if the customer is in arrears with his payment and other obligations, for the duration of the arrears, or if technical and/or commercial questions have not been clarified, for the time necessary to clarify such questions.

As long as DTS is not responsible for the events mentioned in this paragraph, the customer may not withdraw or terminate the contract.

6. If DTS is in default of production and the customer suffers damage as a result of the delay, he shall be entitled to compensation for the delay for each completed week of the delay up to a maximum of ½%, but in total up to a maximum of 5% of the purchase price of the partial delivery which cannot be used on time or in accordance with the contract due to the delay.

The customer reserves the right to prove higher damages caused by

delay. The right to withdraw from or terminate the contract under the statutory conditions due to a delay in delivery for which DTS is responsible after the fruitless expiry of a reasonable period set by the customer for performance remains unaffected by this.

7. Further claims for damages and reimbursement of expenses by the customer against DTS, its executive bodies, its legal representatives and/or its vicarious agents are excluded. This shall not apply if DTS, its executive bodies, its legal representatives and/or its vicarious agents are guilty of intent or gross negligence and/or if essential contractual obligations are breached. In the event of a breach of essential contractual obligations, however, the scope of liability shall be limited to compensation for typical foreseeable damage if DTS, its executive bodies, legal representatives and/or vicarious agents are only guilty of simple negligence, whereby in the case of simple vicarious agents this limitation of the scope of liability shall apply to all negligence.

8. If DTS is in default of production, the customer must, at DTS's request, declare within a reasonable period of time when the production is to take place. If transport is delayed after readiness for dispatch has occurred for reasons for which DTS is not responsible, the customer shall be charged the costs incurred for storage, starting from the time of notification of readiness for dispatch, to the amount of at least ½ % of the net invoiced amount for each month in the case of storage at DTS's works. The customer reserves the right to prove lower storage costs. Further claims of DTS remain unaffected by this.

9. If the customer is domiciled in Germany, the following shall apply: The customer and DTS shall enter into the following agreement in accordance with § 94 of the Insolvency Statute for offsetting in the event of insolvency: In the event of the customer's insolvency, DTS's claims against the customer shall become due upon the opening of insolvency proceedings, even if they would otherwise not have been due at this point in time. In the event of a court order in provisional insolvency proceedings, the due date shall be the court order. This also applies vice versa to claims of the customer in the event of the insolvency of DTS.

#### **D. Service conditions**

##### **I. Remuneration**

1. Unless otherwise agreed in writing, the remuneration of services shall be based on actual expenditure on the basis of the current price list. Overviews of expenses in offers or other service descriptions merely represent non-binding estimates for our resource planning and do not constitute a promise that the services can be rendered in full at the expenditure stated. The amount actually invoiced may therefore be higher or lower. If the estimated expenditure is exceeded by more than 10%, DTS will inform the customer accordingly.

2. Daily rates are based on one day of eight working hours each. Billing shall be effected pro rata temporis according to the number of hours commenced. Travel times are regarded as working time and will be invoiced according to the current price list.

3. Time schedules submitted by us shall be deemed accepted by the customer if they are not expressly contradicted in writing within 14 days of receipt.

4. Unless otherwise agreed, travel costs and expenses shall be invoiced on a time and material basis.

5. All prices are net cash prices free of charges and are exclusive of statutory value added tax and, unless expressly agreed otherwise, ex our Herford branch or, if the service is provided by another branch, ex said branch.

6. DTS reserves the right to increase the prices by a maximum of 5% compared to the agreed prices in the case of agreed performance times of more than 4 months, in accordance with the cost increases that have occurred due to demonstrably increased personnel costs.

##### **II. Selection of employees, subcontractors**

1. DTS is responsible for the selection, deployment, supervision, control, monitoring and remuneration of the customer's employees.

There will be no provision of temporary staff.

2. DTS is entitled to commission subcontractors to provide the agreed service or parts thereof for the performance of the contract.

#### **III. Miscellaneous**

1. In the case of housing, it is the customer's responsibility to take out fire and liability insurance for the equipment installed at DTS at his own expense and, if necessary, to take out low-current insurance.

2. Installation materials used, such as adapters, cables, etc., shall be invoiced separately according to quantities unless they are provided by the customer.

3. In the case of data lines, the bandwidths offered are subject to the availability of the connection line. If a connection line is terminated by a sub-supplier, e.g. for technical reasons, DTS reserves the right to terminate the connection line.

4. Software installations and modifications by third parties must always be coordinated with DTS prior to installation on the servers in order not to jeopardise the data security and availability of the systems. In the event of non-compliance, DTS assumes no liability for data security and availability of the systems.

5. Costs for installations of software, printers and/or workstations are regulated by the applicable price list.

#### **E. Conditions of purchase**

##### **I. Delivery time**

1. The delivery time stated in the order is binding. If the delivery time is not specified in the order and has not been agreed otherwise, it shall be 5 working days from conclusion of the contract.

2. The seller is obliged to inform DTS immediately in writing if he is likely to not be able to meet the agreed delivery times – for whatever reason.

3. If the seller does not provide his service or does not provide it within the agreed delivery period, or if he is in default, our rights – in particular to rescission and damages – shall be determined in accordance with the statutory provisions. The regulations in the following Clause 4 remain unaffected.

4. If the seller is in default, DTS may – in addition to further legal claims – provide lumpsum compensation for our damage caused by default to the amount of 0.5% of the net price (delivery value) per completed calendar week, but not more than a total of 5% of the delivery value of the goods delivered late. DTS reserves the right to prove that we have suffered higher damages.

The seller reserves the right to prove that DTS has incurred no damage at all or only considerably less damage.

##### **II. Rights of DTS in case of defects**

1. The statutory provisions shall apply to DTS' rights in the event of material defects and defects of title of the goods (including incorrect and short delivery as well as improper assembly, defective assembly, operating instructions or manuals), and in the event of other breaches of duty by the seller, unless otherwise specified below.

2. If the condition has not been agreed, a material defect shall be deemed to exist if the goods are not suitable for the use presumed in the contract. Moreover, a material defect shall also be deemed to exist in addition to the statutory provisions if the goods do not exhibit the properties which DTS can expect according to the product description provided by the seller or the manufacturer; it shall be sufficient if the product description was provided to DTS after conclusion of the contract (e.g. together with the goods).

3. Contrary to § 442 (1) P. 2 BGB, DTS shall also be entitled to claims for defects without restriction if the defect remained undetected due to gross negligence on conclusion of the contract.

4. The statutory provisions (§§ 377, 381 HGB) shall apply to the commercial obligation to inspect and give notice of defects with the following proviso: DTS' obligation to inspect shall be limited to defects which become apparent during its incoming goods inspection under external inspection, including that of the delivery documents, as well as during our quality inspection by random sampling (e.g. transport damage, incorrect, and underdelivery). If acceptance has been agreed, there shall be no obligation to inspect. Otherwise, in particular when

the goods are delivered to a customer of DTS, the extent to which an examination is feasible in the ordinary course of business, taking into account the circumstances of the individual case, shall be decisive.

5. The obligation to give notice of defects discovered later remains unaffected. In all cases, the complaint (notice of defects) shall be deemed to be immediate and timely if it is sent by DTS within 5 working days.

6. If the seller fulfils his obligation to supplementary performance by remedying the defect (rectification) not at the premises DTS but at one of his customers, he shall document in writing and in pictures who carried out what work and when, and submit the documentation to DTS within 3 working days of rectification. If DTS believes that the rectification has failed, it must notify DTS of this in writing or in text form within 5 working days; the period begins upon receipt of the documentation.

### **III. Supplier regress**

1. DTS is entitled without restriction to the legally determined recourse claims within a supply chain (supplier recourse according to §§ 478, 479 BGB) in addition to the defect claims. In particular, DTS is entitled to demand from the seller exactly the type of subsequent performance (rectification of defects or replacement delivery) which DTS owes its customer in the individual case. DTS' statutory voting right (§ 439 (1) BGB) is not restricted by this.

2. DTS' claims from supplier recourse shall also apply in addition to the statutory regulation if the delivery of the goods to a consumer – for whatever reason – has not taken place. The same shall apply if the goods were only delivered to a consumer after transformation or further processing by us or other customers.

### **IV. Manufacturer's liability**

1. As far as the seller is responsible for a product damage, he is obliged to indemnify DTS from claims of third parties upon the first request in this regard, insofar as the cause is within the seller's sphere of control and organisation and he himself is liable in the external relationship.

2. Within the scope of his obligation to indemnify, the seller shall reimburse expenses pursuant to §§ 683, 670 BGB (German Civil Code) which arise from or in connection with claims asserted against third parties, including recall actions carried out by us. As far as possible and reasonable, we shall inform the seller of the content and scope of recall measures and give him the opportunity to comment. Further legal claims remain unaffected.

3. The seller shall take out and maintain product liability insurance with a lump sum coverage of at least €1 million per personal injury/property damage.

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