

**General Terms and Conditions for Deliveries and Services of
CENIT (Schweiz) AG**
as of December 2020

1. Scope of Application

- 1.1 In the absence of a separate agreement, all offers and orders concerning deliveries and services of CENIT (Schweiz) AG ("CENIT") shall be based written on the present *General Terms and Conditions for Deliveries and Services* of CENIT. This applies even in the event that, in the context of ongoing business relations, no express reference is made to these *General Terms and Conditions for Deliveries and Services* at a later point in time. Terms and conditions of the customer that are contrary to or deviate from the present *General Terms and Conditions for Deliveries and Services* apply only if CENIT recognizes their applicability expressly in writing.
- 1.2 Depending on the scope of services of CENIT, further General Terms and Conditions may be applicable in addition to the present *General Terms and Conditions for Deliveries and Services*, especially the *General Terms and Conditions for Software and Licenses* (for the permanent use of Software or for the temporary use of Software) and the *General Terms and Conditions for the Maintenance of Software* of CENIT. CENIT will refer to the applicable terms and conditions in the confirmation of order or in the documents also declared applicable. Within the limits of their respective scope of application, these supplementary documents and further General Terms and Conditions shall take precedence over the provisions of the present *General Terms and Conditions for Deliveries and Services*.

2. Offers, Conclusion of Contract

- 2.1 All offers submitted by CENIT are subject to confirmation. Orders shall not be deemed accepted until confirmed by CENIT in writing. The confirmation of the order by CENIT is binding with regard to the content of the contract unless written objection is received by CENIT within 8 days from the date of its confirmation of the order. Oral collateral agreements must in all cases be confirmed by CENIT in writing to be effective.

- 2.2 CENIT reserves all rights without limitation in respect of all service and product descriptions, drawings, test programs, and other documentation supplied to the customer within the framework of the offer. This documentation may be made available to third parties only with the prior consent of CENIT. All product descriptions and technical data contained in such documentation as well as in brochures, advertisements, and other informative and advertising materials are compiled with due care; they do not constitute guaranties in respect of quality, however, unless expressly identified as such. CENIT reserves the right to carry out technically required changes even after the conclusion of the contract if such changes do not materially affect the agreed upon functions of the delivery item or object of the service.

3. Prices, Terms of Payment

- 3.1 As far as not specified otherwise in the confirmation of the order, the prices according to the price list of CENIT as amended from time to time shall apply. The indicated prices will be invoiced plus the applicable statutory VAT, in the case of deliveries of goods ex warehouse Illnau-Effretikon, including packing, plus freight and transport insurance. Travel costs and expenses will be billed separately.
- 3.2 Invoices of CENIT are payable immediately upon receipt without deduction. If the customer fails to effect payment upon receipt of a reminder that has been issued after the due date, the customer will be in delay with payment. Without the issue of a reminder, the customer will be in delay with payment no later than 30 days after the due date and receipt of the invoice. In the event of a delay with payment, CENIT shall be entitled to default interest in the amount of 8 percent points p.a. above the basic interest rate according from the beginning of delay. CENIT reserves the right to furnish evidence of greater damage caused by delay.
- 3.3 Should the customer be in delay with payment, CENIT is entitled – without prejudice to any other statutory rights – to exercise without prior notice a right of retention over all outstanding deliveries and services or to request advance payment and/or provision of security with respect to all outstanding deliveries and services. The same shall apply in the event that, after accepting the order, CENIT obtains knowledge of facts that give rise to justified doubts about the customer's ability to pay.
- 3.4 Payment by bill of exchange or check is possible only on the basis of a prior written agreement. Bills and checks are accepted only on account of performance (*erfüllungshalber*); the point in time of payment shall be deemed the point in time

the bill or check is collected, in the case of bill of exchange or check proceedings the point in time of release of liability. All costs and expenses for the discounting or collection of the bills of exchange shall be borne by the customer.

- 3.5 The customer is not entitled to set counterclaims off against claims of CENIT to the extent that the counterclaims have not been expressly admitted by CENIT or that they have not been finally recognized by declaratory judgment. The customer shall be entitled to exercise a right of retention only to the extent that its counterclaim is based on the same contractual relationship. The customer shall have no right of retention because of partial performances according.

4. Passing of Risk, Delivery and Performance Dates

- 4.1 As regards deliveries, the risk passes to the customer as soon as the delivery item has left the CENIT warehouse; if the deliveries are collected by the customer, the risk passes with the customer's notification of the delivery item being ready for collection. Shipment shall always occur at the customer's cost and risk. In the absence of the customer's written instructions, CENIT will determine the manner of shipment. Transport insurance will be taken out only on the customer's express instructions and at its own expense. Should there be a delay in dispatch due to circumstances for which the customer is responsible, then the risk passes to the customer upon notification that the goods are ready for dispatch. In this case, CENIT is willing, however, to take out the insurance policies requested by the customer at the latter's cost. With respect to software, which the customer himself downloads off the Internet from the download area made available by CENIT, the risk passes to the customer at the time the download link is provided. If a software key is required the risk passes with the delivery of the software key to the customer.
- 4.2 If not expressly agreed in writing, the indication of deadlines for the performance of deliveries and services is not binding. Delivery and service periods firmly agreed upon shall begin no earlier than upon receipt of CENIT's confirmation of the order, however not before the timely and proper fulfillment of the customer's cooperation duties, especially not before the provision of the documentation, approvals, or releases to be furnished by the customer and the receipt of the agreed down-payment, if any. Delivery periods shall be deemed to have been observed if, at their expiry, the delivery item has left the warehouse or the customer has been notified of the delivery item being ready for collection and/or dispatch. The foregoing provision does not apply if, according to the contract, acceptance is required or CENIT is obligated to carry out the installation.

- 4.3 CENIT will endeavor to comply with agreed delivery and service deadlines. If CENIT is in delay with a delivery or another service, the customer shall be entitled to demand for each entire week of delay lump-sum damages in the amount of 0.5% of the order value, up to an overall amount of 5% of the order value, provided that the customer satisfactorily shows that it has incurred a loss or damage due to such delay. Further claims for damages of the customer due to the delay with the delivery or service shall be excluded. This exclusion of liability does not apply if CENIT is compulsorily liable by act of law for the consequences of delay.
- 4.4 The customer's statutory right of rescission in the event of a delay with delivery or service shall remain unaffected but requires that CENIT be responsible for the delay. The customer shall be obligated to declare at CENIT's request within a reasonable period of time whether it will rescind the contract after the expiration of this period due to the delay with the delivery or service, or whether it will insist upon the delivery or service.
- 4.5 CENIT shall be released from the duty to perform in the event of operational breakdown (shortage of materials, strikes) for which CENIT is not responsible and other events of force majeure, as well as late delivery of supplies to CENIT itself, for the period during which the impediment continues to exist. This shall also apply if these circumstances occur to suppliers of CENIT. To the extent that CENIT is released from the duty to perform, CENIT shall grant back advance performances, if any, made by the customer. Further reaching claims for damages of the customer shall be excluded.
- 4.6 Partial deliveries and services shall be permissible to a reasonable extent.

5. Copyrights, License Conditions for Software

- 5.1 The customer shall be obligated to observe such copyrights and other intellectual property rights as exist in respect of the delivered good or the work created in the context of performance, especially rights in respect of software.
- 5.2 In the event of a delivery of software of other manufacturers (Third-party Software), the customer shall be obligated to use the delivered software only in accordance with the respective applicable license conditions of the manufacturer and to impose the same duties on the buyer in the event of a resale of the Third-party Software, provided that such resale is permissible.

- 5.3 Additionally to the present *General Terms and Conditions for Deliveries and Services*, the use of CENIT standard software shall be subject to the *General Terms and Conditions for Software Licenses* of CENIT (for the permanent use of Software or for the temporary use of Software), according to the program certificate.
- 5.4 If software is individually developed on behalf of the customer or if individual adjustments are programmed (Individual Software), the customer will be granted a non-exclusive right of use with regard to the respective work result , unless otherwise agreed individually in writing. Besides, the use of such Individual Software shall be governed by the *General Terms and Conditions for Software Licenses* of CENIT for the permanent use of Software in addition to the present *General Terms and Conditions for Deliveries and Services*.

6. Retention of Title

- 6.1 As regards deliveries of goods, CENIT retains title to the goods supplied until all claims of CENIT arising from the business relationship between CENIT and the customer have been discharged in full, regardless of the cause in law. With respect to current accounts, the title retain is regarded as security for the offset balance of CENIT at any time given.
- 6.2 In the event of a conduct on the part of the customer that is contrary to the terms of the contract, especially in the event of a delay with or imminent cessation of payment, bill protest, unsatisfactory information about the financial solvency of or compulsory enforcement actions against the customer or if a motion to open insolvency proceedings has been filed against the customer, CENIT shall be entitled to take back and the customer shall be obligated to return the delivered goods. CENIT is not required to rescind the contract in order to be able to take back the delivered goods and/or assert its retention of title. These acts, as well as the attachment of the delivered goods by CENIT, do not constitute a rescission of the contract unless CENIT has expressly declared so in writing. After taking back the delivered goods, CENIT shall be entitled to sell or otherwise dispose of the same. The proceeds from such sale or other disposition, less reasonable costs thereof, shall be credited towards the customer's liabilities.
- 6.3 The customer shall be obligated to treat the delivered goods with care and, at the request of CENIT, to sufficiently insure the same at its cost against damage for the period time CENIT retains its title to the goods. The customer assigns to CENIT already any claims it may have against the insurance company up to the amount of

the respective claim of CENIT. To the extent that the third party is not willing or able to reimburse CENIT for the judicial and extra-judicial costs incurred by CENIT in connection with the enforcement of its property rights, the customer shall be liable for the loss incurred by CENIT.

- 6.4 The customer shall be entitled at any time, subject to revocation, to process the goods supplied or combine them with other objects in the proper course of business dealings. Any processing or combination shall be deemed to be on behalf of CENIT without commitment on the part of CENIT. In the event of such processing or combination, the customer shall give CENIT co-ownership in the new or combined item in the same proportion to which the invoice value of the goods in which title is retained is to the total of the invoice value of all other goods used including processing costs. In all other respects, the provisions applicable to goods supplied by CENIT subject to a retention of title shall likewise apply to the item created through processing or combination.
- 6.5 The customer may dispose of the goods in which CENIT has title or co-ownership only in the proper course of business dealings on its usual terms; this applies, however, only as long as the customer is not in default with payment. In the event of resale, the customer assigns to CENIT already in advance the claims arising against its purchasers or any third party in the amount of the value of CENIT's corresponding invoice (plus VAT) plus a security surcharge of 10%. CENIT hereby accepts the assignment.
- 6.6 The customer shall be entitled to collect the claims assigned to CENIT under no. 6.5 above until revoked by CENIT; such revocation shall be permitted at any time. CENIT will exercise this right of revocation for cause only. The customer shall, upon request, be obligated to notify the third-party debtors of the assignment to CENIT and to furnish CENIT with the information and documentation required for collection.
- 6.7 The customer may not transfer to third parties the goods in which CENIT has a title or co-ownership by way of security or pledge the same, may not assign the claims resulting from the resale to a third party or make an offset, nor agree a ban on assignment with its purchasers with respect to such claims. In the event of a global assignment by the customer, the claims assigned to CENIT are to be expressly exempted.
- 6.8 If the value of the security existing on behalf of CENIT exceeds CENIT's claims against the customer by more than 10%, CENIT shall be obligated to release the

security exceeding this limit at the customer's request; the individual objects to be released will be chosen by CENIT.

- 6.9 CENIT shall have the right, and the customer hereby expressly authorises CENIT, to have the retention of title described in this number 6 entered on the relevant register. The customer undertakes not to revoke the authority for as long as it has not discharged in full the claims of CENIT against the customer. The customer undertakes to assist in the registration process and to complete all documents demanded, make all declarations demanded and, if required, to document same in written form and duly submit them signs to the holder of the register if this is necessary for registration of the retention of title or favours registration.

7. Defects as to the Quality of Deliveries (Sale) and Works

- 7.1 In the case of deliveries of goods, the customer shall carefully examine the delivered good without undue delay upon receipt and complain vis-à-vis CENIT about defects, if any, promptly in writing, however no later than seven working days upon receipt of the goods or – in the case of hidden defects – within seven working days after the defects are discernible. Works must be accepted by the customer without undue delay upon performance; acceptance may not be refused due to insignificant defects.
- 7.2 In the event of defects of the delivered goods that are objected to in a timely manner or defects of works that have not been detected upon acceptance, the customer primarily has, a claim for rectification of the defect within a reasonable period of time specified by the client. CENIT will decide the manner of rectification. The expenses necessary for this purpose, such as wage, material, transport, and travel costs, will be borne by CENIT only to the extent that such expenses are not increased due to the fact that the delivery item or the object of the works has subsequently been brought to a place other than the agreed place of delivery or performance, unless such relocation is in accordance with the agreed use of the respective delivery item or object of the respective works. In the event of an unjustified claim of defects, CENIT has the right to claim restitution of the expenses from the client.
- 7.3 If the rectification of the defect according to no. 7.2 is not carried out successfully during a reasonable period of time set by the customer, the customer is entitled, at its own choice and without prejudice to possible claims for damages or for reimbursement of expenses according to no. 10 below, to demand a reduction of the agreed remuneration for the delivery or service (*Minderung*), rectify the defect

itself and claim reimbursement of the necessary expense (only regarding works) or – if the violation of duty on the part of CENIT is not only insignificant – to rescind the contract.

- 7.4 The client has no right to claim defects, as far as the defect is based on the fact, that the delivered good or service has been modified by the client without authorization or was not used according to the correspondent product description.
- 7.5 Claims based on defects (including claims for damages and for reimbursement of expenses due to defects) shall become statute-barred within twelve months of delivery. With regard to replacement parts and/or the rectification of defects, the customer has claims based on defects only until the expiration of the limitation period applicable to the original delivery item or object of the works.
- 7.6 In the event of complaints in respect of defects, the customer may retain payments only to an extent reasonably proportional to the defects having occurred and only if the customer's claims are uncontested or have been finally recognized by declaratory judgment. If the complaint in respect of a defect is unjustified, CENIT shall be entitled to demand from the customer reimbursement of the expenses incurred by CENIT.

8. Supplemental Provisions for the Purchase, Programming and Lease of Software

- 8.1 As regards software, it is not possible according to the current state of the art to exclude all software defects under all conditions of application. For this reason, the object of the contract is software generally corresponding to the information contained in the respective program description. Subject to a possible express guaranty given by CENIT in the confirmation of the order, the information contained in the program description and other program descriptions shall not constitute guaranties as to quality. *Beschaffheitsgarantie*).
- 8.2 A software defect is deemed to exist if the software does not fulfill the functions set forth in the program documentation, if it furnishes incorrect results, interrupts its run in an uncontrolled manner, or otherwise fails to work according to its functions so that the use of the software is not only in considerably impaired.
- 8.3 CENIT does not warrant for defects of the software

- that have been caused by faulty application on the part of the customer and that could have been prevented in the event of careful consultation of the program documentation; this applies also in the event of non-existent or insufficient backup measures;
- due to virus infestation or other external influences such as fire, accidents, power outage, etc. for which CENIT is not responsible;
- that are due to the software being used in an operational environment other than those approved by CENIT or to defects of the hardware, the operating system, or the software of other producers;
- that are due to the software having been modified by the customer or a third party without authorization.

8.4 In the event that defects within the meaning of no. 8.2 above occur, the customer shall be obligated to furnish CENIT with all information necessary for the error analysis and repair, and to grant CENIT and/or the persons commissioned by CENIT unrestricted access to the software and the system of the customer on which the software is installed. Notifications of defects must contain information on the type of defect, the application during which the defect has occurred, as well as the work that has been carried out for purposes of removing the defect. The defect must be described such that it can be reproduced. If CENIT carries out an error analysis at the customer's request and the analysis shows that there is no defect CENIT is obligated to remove, CENIT may invoice the customer for the corresponding expenditure on the basis of the hourly rates of CENIT as applicable from time to time.

8.5 The warranty covers only such defects as existed already at the delivery or acceptance of the software. The warranty ceases to apply to the extent that the customer makes modifications to the software or has such modifications made by third parties without the consent of CENIT, or does not use the software in accordance with the respective program description, or uses the software with a system (hardware and software) other than the one for which the software was configured. If CENIT passes on computer programs from third-party manufacturers, alternative warranty provisions may apply.

9. Third Party Rights

9.1 CENIT warrants within the limits of the following provisions that the goods delivered or the works performed by CENIT are free of third-party rights that prevent the customer's use of such goods or works as agreed.

- 9.2 In the event that such rights are asserted by third parties, the customer shall inform CENIT without undue delay and grant CENIT any and all powers and authorities necessary for purposes of defending the customer against the asserted rights of third parties.
- 9.3 If third party rights exist, CENIT will be entitled, at its choice:
- to remove the third-party rights, that affect the agreed use of the goods or works as agreed by taking suitable measures; or
 - to modify or replace the goods or works such that they no longer infringes third-party rights, if and to the extent that such modification or replacement does not affect the warranted functions of the goods or works.
- 9.4 To the extent that CENIT fails to take the measures according to no. 9.3 above within a reasonable period of time to be fixed by the customer, the customer may at its choice, without prejudice to possible claims for damages or for reimbursement of expenses according to no. 10 below, demand a reduction of the agreed remuneration (*Minderung*) or – if the restrictions originating from the third party rights are significant – terminate the contract.
- 9.5 With regard to the limitation-period for claims based on third party rights, no. 7.5 above shall apply correspondingly.

10. Liability

- 10.1 CENIT shall be liable within the limits of the statutory provisions if the customer asserts claims for damages or for reimbursement of expenses that are based on willful misconduct or gross negligence of institutions of CENIT. Besides, the following provisions of this no. 10 apply.
- 10.2 In the event of slight negligence CENIT is only liable for the breach of an essential contractual obligation. Essential contractual obligations are in the nature of the contract and are particularly important for contractual purposes. In the event of a breach of an essential contractual obligation due to slight negligence the liability of CENIT is limited to the amount which is typically foreseeable. Damage claims according to this no. 10.2 shall become statute-barred within twelve months of delivery. Additionally no. 10.3 applies.
- 10.3 In the event of a loss of data, CENIT shall be liable at most for the expenses that would be necessary for reconstruction of the data if the customer had made data backups in due manner. The customer will remain responsible for the backing up

of its data in accordance with its requirements. Data backup is not a part of the services to be performed by CENIT unless CENIT expressly warrants as such.

- 10.4 Any further liability for damages or for reimbursement of expenses beyond the scope provided for in these *General Terms and Conditions for Deliveries and Services* shall be excluded, regardless of the legal nature of the asserted claim. The imperative provisions of the Swiss Product Liability Act (*Produkthaftpflichtgesetz*) shall remain unaffected.
- 10.5 The liability for proxies, namely liability for harmful behaviour or omission on the part of employees, sub-agents or suppliers, other vicarious agents and/or other proxies, is hereby excluded entirely.

11. Protection of Confidential Information

- 11.1 The contracting parties shall treat important information of the respective other party that is not generally known and of which they obtain knowledge in the context of the performance of the contract with the care usual in business dealings. Any further reaching protection of especially confidential information and the related determination of the requirements and conditions for the use of such information shall require the conclusion of a separate written agreement (Confidentiality Agreement) in the individual case.
- 11.2 The contracting parties may freely use any ideas, conceptions, know-how, and methods with regard to data processing that are not protected by copyrights or other property rights and are not subject to any Confidentiality Agreement.

12. Export Control Laws

- 12.1 The customer shall at all times comply with all applicable export control laws including, but not limited to, the applicable EU-export control regulations.
- 12.2 Upon CENIT's request the customer shall be obligated to submit end user declarations which comply with the provisions referred to in para. 1 above

13. Applicable Law, Place of Performance, and Place of Jurisdiction

- 13.1 The legal relations between CENIT and its customers shall be governed exclusively by the laws of Switzerland, to the exclusion of the provision of Private International Law and the United Nations Convention on Contracts for the International Sale of Goods.
- 13.2 The exclusive place of performance for both parties to the contract shall be Illnau-Effretikon. The place of jurisdiction is Zuerich. However, CENIT shall be entitled to sue the customer also at its general place of jurisdiction.

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