

General Business Terms of HörTech gGmbH

1 General information

- 1.1 These General Business Terms shall apply to all offers, order confirmations, services and deliveries of HörTech gGmbH (hereinafter referred to as: “HörTech”).
- 1.2 General Business Terms of the customer (hereinafter referred to as “Client”) shall not become parts of the contract unless these are approved by us in writing. Our General Business Terms shall also apply if carry out the delivery to the Client without reservation in the knowledge of contradictory or deviating terms and conditions of the Client.
- 1.3 Our General Business Terms shall also apply to all future business with the Client. The right is reserved to make changes.

2 Offer and conclusion of a contract

- 2.1 After expiry of the acceptance deadline stated in the offer, offers of HörTech – in particular with regard to the prices, quantity, delivery deadline, delivery possibility and secondary services – shall be without obligation and non-binding.
- 2.2 The scope of the services to be provided by HörTech shall be solely stipulated by the order confirmation of HörTech and these General Business Terms.
- 2.3 HörTech reserves the right to make deviations from the offer documents respectively from the order confirmation, due to the consideration of mandatory technical or legal standards. Changes over the course of the technical progress remain reserved without it being possible to hereby assert rights from this towards HörTech.
- 2.4 The contract between the Client and HörTech shall be concluded after the order has been placed by the Client through an order confirmation of HörTech in a text form or by delivery of the ordered goods by HörTech.

3 Installation, training and advice

- 3.1 The Client is principally responsible for the proper installation of delivered hardware and/or software itself. Both the installation as well as the training and initial instructions of the Client or its operating personnel in the operation of the delivered hardware and/or software do not belong to the scope of services of HörTech unless the training and initial instructions of the Client are stipulated by law. Insofar as not statutory obligation exists an additional agreement shall be concluded between the Client and HörTech concerning these services that are to be settled separately.

- 3.2 There is no obligation for the provision of advice by HörTech – in particular with regard to the choice of operating systems or of hardware and/or software. Advice regarding operational flows shall only be carried out owing to a corresponding supplementary agreement and will be charged separately.

4 Obligation for inspection and to report defects, scope of services

- 4.1 The Client undertakes to inspect the delivered goods for the existence of obvious defects. The obvious defects shall also include the absence of manuals as well as substantial, easily visible damages to the goods. Further cases shall fall under this, in which another object or a too small quantity are delivered. Such obvious defects are to be reported to HörTech in a text form within one month after delivery. Defects, which only become obvious at a later time, must be reported to HörTech in a text form within one month after knowledge thereof.
- 4.2 HörTech has to exclusively supply documentation in a machine-readable form and as a single copy.
- 4.3 HörTech is entitled to make partial deliveries and to provide partial services insofar as this is not opposed by justified interests of the Client.

4.4 The prices are deemed net plus packaging and freight costs. Decisive are the prices of the order confirmation plus the respective applicable rate of value added tax. Deliveries and services, for which fixed prices have not been explicitly agreed, shall be charged at the sales prices of HörTech, which are valid on the day upon which the services are provided.

4.5 HörTech is not bound to the agreed prices if a longer delivery deadline than 4 months from the written order confirmation is agreed. In this case the prices valid at the time when the services are provided shall be charged.

5 Delivery and service deadlines

5.1 Details concerning the delivery deadline are non-binding insofar as the delivery date was not promised as binding as an exception or a corresponding agreement has been reached.

5.2 Changes or supplementations to orders shall lead to the revocation of agreed dates and deadlines, insofar as not otherwise agreed. If necessary documents, etc. of the Client are still outstanding then the delivery date shall be postponed accordingly until they are received.

5.3 All delivery promises and dates are subject to the reservation of the correct and timely self-delivery.

5.4 Delivery and service deadlines owing to force majeure or other impediments, for which HörTech is not responsible, which have substantial influence on the delivery or service, in particular in case of interferences to operation, strike, official orders, etc., shall entitle HörTech to extend the delivery or service deadline by the duration of the impediment.

6 Assumption of risk, delay in acceptance of the Client

6.1 If the shipment of goods (hardware or software) is delayed at the Client's request then the risk of service shall pass to the Client with the report that the goods are ready for shipment by HörTech.

6.2 If the Client is in default of acceptance HörTech is entitled to cancel the contract and/or request damages instead of the service after setting a reasonable final deadline of a maximum of two weeks. If HörTech requests damages then this shall amount to 30% of the order value if the Client does not prove that HörTech did not suffer any or only less damages or HörTech proves higher damages.

7 Warranty

7.1 The pre-requisite for all rights of the Client to the warranty for defects is its proper satisfaction of all responsibilities for inspection and to report defects owed according to Subclause 4.1 and/or § 377 HGB [German Commercial Code].

7.2 Insofar as HörTech installs the software according to a separate agreement the Client shall test this immediately together with an employee of HörTech. If the software thus essentially complies with the requirements as per contract the Client shall declare the acceptance in a text form immediately.

7.3 HörTech can remedy defects at the choice of the Client by subsequent improvement or a replacement by faultless goods. The Client cannot request any subsequent improvement by the creation of a special version, with the faults corrected, if this involves a disproportionate amount of costs for HörTech. HörTech is entitled to also effect a provisional remedy of defects by by-pass solutions until the fault has been remedied in one of the following updates insofar as this is not deemed unreasonable for the Client. With a final failure of the subsequent improvement or the replacement the Client is entitled to request reduction of the remuneration (decrease) or to cancel the contract.

7.4 Warranty claims are to be asserted immediately in a text form; they must contain a sufficient description of the reported defect.

7.5 If changes are made to the delivered software by the Client or by third parties then the warranty claim shall lapse in full

unless the Client proves that the defect is not a result of the change.

- 7.6 Warranty claims of the Client shall become statute-barred two years after the delivery of the hardware or software at the Client. In the cases of No. 6.1 the statute-of-limitations shall begin with the report that the goods are ready for shipment by HörTech. An extension to the warranty period for the whole system shall not be carried out owing to the delivery of an update or upgrade.

8 Liability

- 8.1 In the event of wilful intent or gross negligence of HörTech or on the part of the representatives or vicarious agents of HörTech we shall be liable according to the statutory regulations; also in case of the culpable breach of essential contractual duties. Insofar as there is no wilful breach of the contract the liability of HörTech for damages is limited to the foreseeable, typically occurring damages.
- 8.2 The liability owing to the culpable injury to life, the body or the health as well as the liability according to the Product Liability Act shall remain unaffected.
- 8.3 Insofar as not explicitly regulated otherwise above, the liability of HörTech is excluded.
- 8.4 A co-fault of the Client (e.g. insufficient data backup) is to be attributed hereto.

9 Payment

- 9.1 The invoices are, insofar as not otherwise agreed, payable net within 14 days. There is no right to the deduction of cash discount.
- 9.2 If the term of net payment of 14 days from the receipt of the invoice is exceeded we are entitled to charge interest on default in the amount of 8 percentage points above the respective base lending rate from this time also without a reminder according to § 247 BGB [German Civil Code]. We reserve the right to prove and assert higher damages.
- 9.3 The Client is only entitled to offset insofar as its counter-claims are

undisputed or have been determined final and binding. The Client is only entitled to assert rights of retention owing to counter-claims from the same contractual relationship.

10 Reservation of title

- 10.1 HörTech reserves the property to the delivered hardware and the delivered data carriers until the full payment of all claims, to which HörTech is entitled and which are incurred still, no matter for what legal grounds. This shall also apply if individual or all claims of HörTech were included in a current account and the balance has been drawn and recognised. With the full acquisition of the property to the data carriers the Client acquires the rights of use specified in Subclause 12.
- 10.2 Insofar as the reservation of title exists the pledge, assignment as collateral, rental or provision of the reserved goods otherwise, which impairs the security of HörTech shall only be permitted with the prior consent of HörTech. The consent requires a text form.
- 10.3 The Client has to keep reserved goods in safekeeping for HörTech with the commercial care and attention and to sufficiently insure these against fire, water, theft and other damage risks at its costs.
- 10.4 If the goods delivered under the reservation of title are sold by the Client then it hereby now already assigns the claims incurred from the sale to HörTech in the amount of the value of the goods delivered under reservation of title with all secondary rights. The Client is revocably entitled to collect these claims. At the request of HörTech it has to announce the assigned claims and their debtors. HörTech is entitled to disclose the assignment towards the Client's debtor.
- 10.5 In case of a conduct of the Client in breach of the contract – in particular default of payment or expected suspension of payment – HörTech is entitled to withdraw the reservation rights at the Client's costs or, if

applicable, to request the assignment of possible claims for hand-over of the Client against third parties. HörTech is entitled to, if applicable, sell the reserved goods and to offset the sales proceeds against the outstanding claims from the business relationship.

- 10.6 In case of a right to withdrawal according to the afore-mentioned paragraph HörTech is entitled to pick the reserved values up, which are still in the possession of the Client. The Client has to permit the employees of HörTech, authorized to pick the reserved rights up, the access to the business premises during the office hours also without prior notification.
- 10.7 The exercising of the rights from the reservation of title or a request for hand-over shall not be deemed as a cancellation of the contract.

11 Reservation of title with delivery overseas

- 11.1 If certain measures are necessary, in case of deliveries overseas, in the country of import in order for the reservation of title stated in § 10 or for other rights described therein to which HörTech is entitled to be effective then the Client has to point this out to HörTech and to carry out such measures at its costs.
- 11.2 If the law of the country of import does not allow a reservation of title, however it permits the seller to reserve other rights to the object of delivery, then HörTech can exercise all rights of this kind. Insofar as an equivalent securing of the claims of HörTech against the Client is not achieved hereby the Client undertakes to procure other securities to the delivered goods or other securities for HörTech at its costs.

12 Scope of the granting of rights

- 12.1 HörTech reserves the copyrights and exploitation rights to delivered software insofar as not otherwise explicitly agreed in writing. The property right notices affixed on the programme carriers or the packaging – also references to third parties – are to be complied with.

12.2 With the delivery of standard or individual software the Client as licensee acquires a simple, irrevocable right of use not limited in time to the extent that the software is only to be used for the use intended as per contract. A reproduction of the software is not permitted.

12.3 The Client can procure further copies of the manuals at the prices usually charged by HörTech. It is not entitled to reproduce manuals or documentation.

12.4 The Client is not entitled to make the programmes available to third parties without the prior written consent of HörTech. HörTech is not obliged to grant this consent.

12.5 The resale of the software is principally permitted. The pre-requisite is that the Client does not retain any software and/or materials in its possession whatsoever and destroyed possibly produced copies or assigns these to the buyer.

12.6 The single station licence gives the Client the right to the use on a single computer or at only one workstation in a network. The network licence gives the Client the right to the use in a local computer network on a network server together with the number of single station licences agreed as per the individual contract, which simultaneously access the data stocks of the server.

12.7 The editing of the contractual software is not permitted insofar as this is not opposed by mandatory statutory provisions or otherwise agreed as per contract.

12.8 The decompiling or disassembly of the contractual software (Reverse Engineering) is not permitted either. HörTech reserves the right to make information available to the Client upon request, which it requires for the establishment of the interoperability of the contractual software with other programmes, against a reasonable remuneration. When using this information the Client has to comply with

the restrictions stipulated in § 69e Par. 2 of the German Copyright Act.

13 Property rights of third parties

- 13.1 The Client undertakes to inform HörTech immediately in writing if it is given indications of the infringement of commercial property rights or copyrights through a contractual software product. HörTech is solely entitled to defend the Client at the costs of HörTech against claims of the holder of such rights insofar as these are a result of the direct infringement of a product delivered by HörTech.
- 13.2 HörTech shall principally make an effort to procure the right to the use in the scope as described in Subclause 12 for the Client. If this is not possible at cost-effective conditions HörTech shall at its own choice modify the product to the extent that the property right is not infringed or take the product back and reimburse the purchase price minus compensation for the drawn benefits.
- 13.3 If the Client has changes the delivered product or integrated it into a system so that this results in infringements of property rights the Client is obliged, at its own costs, to defend or indemnify HörTech against claims of the holder of the infringed right.

14 Assignability of claims

- 14.1 The Client is not entitled to assign its claims from contracts concluded with HörTech or assign other rights or duties from contracts concluded with HörTech to third parties in full or in part without the consent of HörTech. This shall also apply to warranty claims.

15 Data protection

- 15.1 The Client authorizes HörTech to store, evaluate and process the data concerning it received in connection with the business relationship in line with the Federal Data Protection Act (§ 28 BDSG).

16 Final provisions

- 16.1 Should one or several of these provisions be or become invalid this shall have no effect on the validity of the other provisions.

16.2 All legal relationships from this contractual relationship are subject to the law of the Federal Republic of Germany. The application of the UN Convention on Contracts concerning the International Sale of Goods is explicitly excluded.

16.3 The place of performance for all deliveries and services of HörTech is Oldenburg (Oldbg.). The exclusive place of jurisdiction for all lawsuits with merchants, legal entities under public law or special assets under public law is Oldenburg (Oldbg.), insofar as no other place of jurisdiction is stipulated as mandatory by the law.

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